

RESOLUTION NO. 18-015

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS
RECOMMENDING THE CITY COUNCIL APPROVE GENERAL PLAN
AMENDMENT NO. GP17-0001, SPECIFIC PLAN AMENDMENT NO. ST17-0002,
ZONING AMENDMENT ZA17-0002, SITE DEVELOPMENT PERMIT SD17-0013,
CONDITIONAL USE PERMIT UP17-0018, DENSITY BONUS DB17-0002, LOT
COMBINATION LC17-0002, AND ENVIRONMENTAL ASSESSMENT NO. EA17-0005
AND ADOPTING AN ADDENDUM AND FINDINGS OF EXEMPTION PURSUANT TO
THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, PUB. RES. CODE 21000, ET
SEQ., FOR THE CONSTRUCTION OF A SEVEN STORY, 85 FOOT TALL, 220 UNIT
APARTMENT COMPLEX WITH TEN DWELLING UNITS FOR VERY LOW INCOME
HOUSEHOLDS, LOCATED AT 1380 AND 1400 SOUTH MAIN STREET
(APN 086-36-006 AND 086-23-007)**

WHEREAS, on August 21, 2017, the City received an application for a General Plan Amendment, Specific Plan Amendment, Zoning Amendment, Site Development Permit, Conditional Use Permit, Lot Combination, and Environmental Assessment for the construction of a seven story, 85 foot tall, 220 unit apartment complex with ten dwelling units designated for very low income individuals or households, also known as the “Project,” located at 1380 and 1400 South Main Street; and

WHEREAS, 1380 South Main Street is located within the TASP planning area; specifically, within the McCandless / Centre Point sub district; and

WHEREAS, 1400 South Main Street is currently located within the Midtown Specific Plan planning area; and

WHEREAS, the applicant has proposed that 1400 South Main Street be removed from the Midtown Specific Plan area and be annexed into the TASP planning area, along with additional entitlements, as described within the “Project”; and

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code, § 21000 et seq.), the State CEQA Guidelines (California Code of Regulations, title 14, § 15000 et seq.) (Collectively, “CEQA”), the City of Milpitas is the lead agency for the proposed project described above; and

WHEREAS, on June 3, 2008, the City Council of the City of Milpitas certified an Environmental Impact Report (“EIR”) prepared to analyze the environmental impacts associated with the proposed Transit Area Specific Plan (the “TASP EIR,” State Clearinghouse No. 2006032091), and subsequently adopted the Transit Area Specific Plan (the “TASP”); and

WHEREAS, the TASP EIR reviewed the potential environmental impacts associated with the implementation of the TASP, which envisioned the development of 7,109 dwelling units, 287,075 square feet of retail space, 993,843 square feet of office and industrial park space, and 350 hotel rooms; and

WHEREAS, pursuant to CEQA, when taking subsequent discretionary actions in furtherance of a project for which an EIR has been certified and has been adopted, the lead agency is required to review any changed circumstances to determine whether any of the circumstances under Public Resources Code § 21166 and State CEQA Guidelines § 15162 require additional environmental review; and

WHEREAS, in order to study any environmental impacts subject to review under CEQA per Public Resources Code section 21166 and State CEQA Guidelines section 15162, GP167-0001, ST17-0002, ZA17-0002, SD17-0013, UP17-0018, DB17-0002, and LC17-0002 were analyzed through an Addendum to the TASP EIR (the “Addendum,” a true and correct copy of which is attached hereto and incorporated herein as **Exhibit 2**); and

WHEREAS, per 14 C.C.R. § 15164(b), the Addendum concluded that no supplemental or subsequent initial study is required because: (a) no substantial changes are proposed in the Project which will require major revisions of the initial study; (b) no substantial changes have occurred with respect to the circumstances under which the Project is being undertaken which will require major revisions in the initial study; and (c) no new information which was not known and could not have been known at the time the initial study was certified has become available; and

WHEREAS, Milpitas City Staff also conducted a full analysis of the project to ensure compliance with the City’s General Plan, Zoning Ordinance, Engineering Design Requirements and all other applicable laws, regulations and standards, as all further explained in detail in staff report to the Planning Commission; and

WHEREAS, the Planning Commission makes and accepts as its own the findings set forth in the resolution; and

WHEREAS, the Planning Commission is an advisory body to the City Council; and

WHEREAS, as separate and independent bases, the Planning Commission hereby finds and determines that the project is exempt from further CEQA review pursuant to CEQA Guidelines section 15183 (projects consistent with a Community Plan, General Plan or Zoning); and

WHEREAS, on August 22, 2018, the Planning Commission held a duly noticed public hearing on the subject application, at which all those in attendance were given the opportunity to speak on Project; and

WHEREAS, the Planning Commission has considered all of the written and oral testimony presented at the public hearing in making its decision; and

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

SECTION 1. Recitals.

The Planning Commission has duly considered the full record before it, which may include but is not limited to such things as the City staff report, testimony by staff and the public, and other materials and evidence submitted or provided to the Planning Commission. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2. CEQA Finding

The Planning Commission has reviewed the Addendum to the TASP EIR and finds that an addendum is the proper environmental review document under CEQA because none of the circumstances necessitating preparation of a subsequent EIR have occurred in that: (a) no substantial changes are proposed in the Project which will require major revisions to the TASP EIR; (b) no substantial changes have occurred with respect to the circumstances under which the Project is being undertaken which will require major revisions to the TASP EIR; and (c) no new information has become available which was not known and could not have been known with the exercise of reasonable diligence at the time the TASP EIR was certified that shows any of the factors set forth in 14 C.C.R. §15162(a)(3). The Planning Commission considered the Addendum together with the TASP EIR prior to rendering a decision on the Project. The Planning Commission further finds that the Addendum reflects the Commission's independent judgment and analysis, and that there is no substantial evidence that the Project will have a significant effect on the environment. The Addendum fully studies the impacts of the Project as proposed. Based on its independent review and consideration, the Planning Commission hereby finds that the Addendum complies with the requirements of CEQA and adopts the conclusions in the Addendum on the basis of the evidence and reasoning set forth therein. The Planning Commission thus recommends the City Council approve the Addendum.

SECTION 3. General Plan Amendment (Section XI-10-57-02(G)(1)) - *The Planning Commission makes the following findings based on the evidence in the public record in support of General Plan Amendment No. GP17-0001:*

- 1. The proposed amendment is internally consistent with portions of the General Plan which are not being amended.*

The Project proposes a General Plan Amendment on the project site from Multi-Family, Very High Density (VHD) to Urban Residential (URR) within the TASP. Although these two General Plan designations are similar, the URR General Plan Designation is intended to allow for the development of the highest density residential uses within walking distance of the future Milpitas BART and VTA light rail transit stations, as appropriate to the location of the project site. This General Plan land use category is reflected in several other similar locations (in close vicinity of transit stations) within the City and serves to accommodate substantial growth, minimize impacts on local roadways, and reduce urban sprawl within the project area. Therefore, this General Plan Amendment would be consistent with the overall goals of the General Plan as a whole.

2. *The proposed amendment will not adversely affect the public health, safety and welfare*

The project will not adversely affect the public health, safety and welfare because the project was analyzed by City staff and conditioned in a manner that will protect the residents and community from adverse impacts. Such analysis includes a thorough review to ensure the project can be served by existing infrastructure, including public utilities and services. Furthermore, the amendment will allow additional density to be located within the Transit Area Specific Plan, which will include a significant financial investment for improvement projects necessary for the upgrading and expansion of public facilities, such as storm drainage, sewer, water, waste disposal, and circulation and street improvements.

SECTION 4. Specific Plan Amendment (Section XI-10-57-02(G)(2)) - *The Planning Commission makes the following findings based on the evidence in the public record in support of Specific Plan Amendment No. ST17-0002:*

1. *The proposed specific plan or specific plan amendment is consistent with the goals, objectives, policies, and programs of the General Plan, and is necessary and desirable to implement the provisions of the General Plan.*

The project and specific plan amendment is consistent with the goal of the Transit Area Specific Plan (TASP) to “create an attractive and livable neighborhood within walking distance of the future Milpitas BART and VTA light rail transit stations and to transform the older, light industrial area into a residential and commercial area that would meet demand for housing, offices, and shopping in the Bay Area.” With the SP amendment, the project would further the ability to provide a variety of housing types for different types, income levels, age groups, and lifestyles (TASP Policy 3.4) and assist in the development of at least 5,000 but no more than 9,350 housing units within the Transit Area (TASP Policy 3.1) and continue providing affordable housing units within new housing developments (TASP Policy 3.2).

2. *The uses proposed in the specific plan or specific plan amendment are compatible with adjacent uses and properties.*

The project location is already designated as High Density Multi-Family Residential (R4-TOD). The proposal will increase the density to Very High Density Multi-Family Residential (R5-TOD), which will not impact the use whatsoever, but rather increase the density of the existing location and expand the size of the TASP area by including one additional land parcel within its boundary, with an identical use of its existing neighboring TASP parcel.

3. *The proposed specific plan or specific plan amendment will not adversely affect the public health, safety and welfare.*

The proposed project, associated use, and insignificant adverse effects on the public health, safety and welfare are demonstrated and discussed on pg. 3, Finding 2, within the General Plan Amendment section.

4. *The proposed specific plan amendment will not create internal inconsistencies within the specific plan.*

The proposed project will not create internal inconsistencies within the TASP in that the project is consistent with and advances the goals of the TASP to create an attractive and livable neighborhood that meets the demand for housing and accommodates substantial growth, minimizes impacts on local roadways, and reduces urban sprawl at the periphery of the region. The provision of higher density housing at this site is notable in that it maintains the projected levels of housing to be developed in the plan. It is critical to maintain overall density in the TASP to support the existing and proposed investment in mass transit, infrastructure and mix of land uses and densities contemplated in the plan buildout. The project is also consistent with the policies of the McCandless/Centre Point Sub-district, where the project is located. McCandless/Centre Point Sub-district proposed this area of Milpitas as the best location for a successful retail mixed use district that includes high density residential uses, building from the established retail destination of the Great Mall. By locating high density housing units along South Main Street, the project fulfills the policies of the McCandless/Center Point sub-district, which call for locating residential uses within proximity to the BART and VTA light rail stations and supporting the established retail uses within this district, including the mall and nearby grocery store.

It is for these reasons discussed above that the amendment will not create internal inconsistencies within the specific plan.

SECTION 5. Zoning Amendment (Section XI-10-57-02(G)(3)) - *The Planning Commission makes the following findings based on the evidence in the public record in support of Zoning Amendment No. ZA17-0002:*

1. *The proposed amendment is consistent with the General Plan.*

The proposed project and associated amendment is consistent with the General Plan in that both the existing and proposed General Plan designation will remain residential, which mimics the Zoning Amendment proposal to allow residential uses, with the change of increased density. It is for these reasons the proposed amendment will continue to be consistent with the General Plan.

2. *The proposed amendment will not adversely affect the public health, safety and welfare.*

The proposed project, associated use, and insignificant adverse effects on the public health, safety and welfare are demonstrated and discussed on pg. 3, Finding 2, within the General Plan Amendment section.

SECTION 6: Site Development Permit (Section XI-10-57.04(F)) - *The Planning Commission makes the following findings based on the evidence in the public record in support of Site Development Permit No. SD17-0013:*

1. *The layout of the site and design of the proposed buildings, structures and landscaping are compatible and aesthetically harmonious with adjacent and surrounding development.*

The project's contemporary architecture takes into consideration building design criteria as identified by the Milpitas Midtown Specific Plan (which is adopted into the Milpitas Transit Area Specific Plan). For instance, the building maintains a strong relationship to the street with the primary building entrance oriented toward the street. The exterior walls of the building are articulated with a consistent, contemporary style and associated materials. The building is well articulated by changes to the roof heights and vertical planes to reduce the bulk and create an interesting building silhouette. The project has incorporated the use of balconies on all units, including units that face the public street, as recommended by the TASP and Midtown Specific Plan. In regards to fenestrations, the use of multi-paned windows are incorporated, as recommended by the TASP and Midtown Specific Plan. Lastly, all materials proposed are of high-quality and the body of the building has a general muted tone color that is light in tone, while the accents, window frames and details of cornice lines are a richer, dark tone. It is for these reasons that the project is compatible and aesthetically harmonious with surrounding residential development.

2. *The proposed use is consistent with the Milpitas Zoning Ordinance.*

The proposed project, associated use, and development criteria are consistent with the Milpitas Zoning Ordinance, as demonstrated and outlined in Table 1, below:

Table 1:
R5-TOD Zoning Development Standards

Standard	Requirement	Project Specifications	Compliance
Lot Area, Minimum	None	2.14 acres	Yes
Lot Width, Minimum	None	353'	Yes
Density (min-max)	75 du/ac in TOD 90 du/ac with CUP 108 du/ac with Density Bonus	102.8 du/ac	Yes (with CUP & Density Bonus)
Front Yard Setback	12-20 ft. from back of sidewalk Exception allowed per CUP – see City Code Section XI-10-4.06(3)(b)	11-51 ft. from back of sidewalk	Yes (with CUP)
Side Yard Setback	20' or greater	26.5' (left) and 28.5' (right)	Yes
Rear Yard Setback	20' or greater	26.5'	Yes
Building Height	75'	85'	Yes (with Density Bonus Concession)

Standard	Requirement	Project Specifications	Compliance
Parking	Studios – 48 spaces One-Bed – 97 spaces Two-Bed – 126 spaces Commercial – 2 spaces Guest – 41 spaces Total – 288 (314 minus 26 spaces)¹	323	Yes (with CUP)
Lot Coverage	N/A	0.64	Yes
¹ Vehicle Parking spaces may be omitted for each eight bicycle spaces provided and/or each two motorcycle spaces provided.			

As demonstrated within the table above, the project is substantially compliant with the zoning standards for the R5-TOD district.

3. *The proposed use is consistent with the Milpitas General Plan.*

The proposed project, associated use, and development criteria are consistent with the policies of the Milpitas General Plan, as demonstrated and outlined in Table 2, below:

Table 2:
General Plan Consistency

	Policy	Conformance
General Plan	<i>2.a-G-2 Maintain a relatively compact urban form. Emphasize mixed-use development to the extent feasible, to achieve service efficiencies from compact development patterns and to maximize job development and commercial opportunities near residential development.</i>	<i>The project meets all this guiding principle by substantially increasing the density to create a compact residential development adjacent to a main commercial corridor of the City, where service efficiencies will be created due to the proposed location and its proximity to food, work and leisure, which are all within walking distance of the project site.</i>

General Plan	<i>2.a-G-11 Promote land use policy and implementation actions that improve the City's fiscal sustainability. Main and enhance the City's projected total net revenue through amendments made to the General Plan. Discourage proposed re-zonings or other discretionary land use actions that could significantly diminish revenue to the City or significantly increase the City's service costs to the City without offsetting increase in revenue.</i>	<i>The project includes a specific plan amendment to remove 1400 South Main Street from the Midtown Specific Plan area and into the Transit Area Specific Plan area, where residential development is proposed. The implementation will allow the City to enact the residential TASP fee for all units associated with the development, which would provide over \$7,000,000 in TASP development fees, over \$120,000 in Community Facilities District (CFD) fees, which are paid annually, and over a \$1,000,000 in School Impact fees, paid directly to Milpitas Unified School District. The proposed action is consistent with the aforementioned policy.</i>
General Plan	<i>2.a I-2 Promote development within the incorporated limits which acts to fill-in the urban fabric rather than providing costly expansion of urban services into outlying areas.</i>	<i>The project will replace redevelop a commercial center with high density housing, further promoting development within an area already serviced by existing utilities.</i>

As demonstrated in the table above, the project, associated uses, and proposed density are consistent with the Urban Residential General Plan Designation as proposed.

SECTION 7: Conditional Use Permit (Section XI-10-57.04(F)(1) & XI-10-4.05(E)(3))
The Planning Commission makes the following findings based on the evidence in the public record in support of Conditional Use Permit No. UP17-0018:

- 1. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.*

The project, as proposed, will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare because the intent of the GP, SP, and Zoning designation of 1380 and 1400 South Main is for development of a highly dense residential area that can take advantage of the multi-modal transportation options as recognized within the TASP goals and policies. The project demonstrates such a development that has been designed “to create an attractive and livable neighborhood within walking distance to the future Milpitas BART and VTA light rail transit stations”. Providing flexibility in the standards allows the developer to utilize the parcels to their fullest potential in an effort to create a high quality, well-designed residential building that can provide a range of unit types. The proposed height and number of stories is consistent with nearby projects, such as the Turing development, located at 1315 McCandless Drive, and is adequately setback from neighboring properties in order to limit the impact on views and privacy. The flexibility with the front setback requirements will give the applicant the ability to create a well-designed public plaza with generous amenities for the public and residents. The increased density can be supported and stems from State Density Bonus law with the inclusion of 10 affordable units for very low income households. Tandem parking will account for 38% of the total parking and will be designated for two-bedroom units, which have the greatest potential need for additional parking. Lastly, although the plan calls for 70% of the ground floor level street elevation to be habitable space, the architect has been able to create a very well-designed pattern of storefront windows and a mixture of cement panels in earth tone gray and brown shades, which mimics a retail street front elevation and is pleasing to the eye.

2. *The proposed use is consistent with the Milpitas General Plan.*

The proposed project and associated use is consistent with the Milpitas General Plan, as demonstrated and outlined in Table 2 above.

3. *The proposed use is consistent with the Milpitas Zoning Ordinance.*

The proposed project and associated use is consistent with the development standards of the Milpitas Zoning Ordinance, as demonstrated and outlined in Table 1, above.

4. *The exceptions meet the design intent identified within the Transit Area Specific Plan (TASP) and do not detract from the overall architectural, landscaping and site planning integrity of the proposed development.*

Milpitas designated the TASP to accommodate substantial growth, minimize impacts on local roadways, and reduce urban sprawl at the periphery of the region. The TASP identifies various design guidelines including Site Planning, Street Pattern, Site Configuration and Design, Parking Areas, Building Orientation, Building Massing and Articulation, Fenestrations, Building Materials, Building Colors, Roof Design, Landscaping and Lighting. The project incorporates the following design guidelines as outlined in the TASP. The project is consistent with the design intent of the TASP by proposing high quality architecture with building facades that include a street facing entry, significantly limited perforations along the front facade, aluminum windows with stylish

horizontal and vertical dividers, articulation along the elevations, special corner treatments, and a strong entry element along S. Main Street. Additional components of the project include a publicly landscaped and hardscaped plaza and transit improvements that maximize connectivity on the site and in the project area for autos, bicyclists and pedestrians. Such quality amenities reinforce the street and pedestrian connections and experience. The proposed exceptions such as height, deeper front setback, increased density, tandem parking and ground floor level exterior treatment do not detract from the overall architectural theme of the TASP.

5. *The exceptions allow for a public benefit not otherwise obtainable through the strict application of the specified standard*

The project includes a substantial amount of recreational open space both for the public realm and for the enjoyment of the residents, which exceeds the open space / parkland requirement for such development. This can be seen in the large public plaza at the front of the project, as well as a large exercise and dog play area at the rear of the building and in the interior courtyard recreational area. Additional public benefits include the additional TASP fees generated by the project. By allowing 1400 S. Main Street into the TASP, the City will capture an additional \$3.5 million dollars more in TASP fees, giving the City the ability to invest in the City's infrastructure needed to support the community. Furthermore, the project includes an additional 10 residential units for very low income households. The exceptions proposed allow the City to obtain the public benefits discussed above.

6. *The project design in its totality does not adversely impact adjoining properties to a greater degree than a project that complies with all development standards. Impacts to be considered include: access to sunlight, views, shadows on parks and open space, privacy, and noise*

The proposed exceptions allow for the provision of the number and range of unit types, high quality architecture and amenities, as well as transportation improvements that are both integral to a high quality multi-family project and also work to enhance the public realm both adjacent to the site and in the immediate project area. The project will still maintain setbacks to adjacent properties and the street and will not result in impacts to sunlight, views, significant shadows on parks and open space, nor create privacy or noise issues.

SECTION 8: *Density Bonus (Section XI-10-54.15(D)(F)) - The City must grant requested incentives/concessions unless the City can make either of the following findings in writing and based on substantial evidence:*

1. *The concession is not required in order to provide for affordable housing costs as defined in State Health and Safety Section 50052.2, or for rents for the affordable units pursuant to Section XI-10-54.15(D)(5), Standards, of this Chapter.*

The City has insufficient evidence in the record to support denial of the proposed concession. Based on the evidence provided, A additional height is directly related to the financial feasibility of providing an adequate number of units within the project to offset the financial burden associated with providing affordable housing units.

2. *The concession would have a specific adverse impact as defined in State Government Code Section 65589.5(d) (2) upon the public health and safety or the physical environment, or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households.*

The City has insufficient evidence to support a finding the proposed concession of additional height will have a specific adverse impact upon the public health and safety or the physical environment or any real property that is listed in the California Register of Historical Resources in that The Project is consistent with the goals, policies and standards of the GP, TASP, and Zoning regulations as well as the TASP Environmental Impact report, which was certified by the City of Milpitas in May 2008.

SECTION 9: The Planning Commission of the City of Milpitas hereby adopts Resolution No. 18-015 recommending City Council approve General Plan Amendment No. GP17-00011 Specific Plan Amendment ST17-0002, Zoning Amendment ZA17-0002, Site Development Permit No. SD17-0002, Conditional Use Permit No. UP17-0018, Density Bonus Permit No. SD17-0002, Lot Combination No. LC17-0002, and Environmental Assessment No. EA17-0005, based on the above Findings and subject to the Conditions of Approval attached hereto as Exhibit 1 and the CEQA Addendum, attached hereto as Exhibit 2 incorporated herein.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on August 22, 2018.

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on August 22, 2018 and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella				
Ray Maglalang				
Sudhir Mandal				
Demetress Morris				
Gurdev Sandhu				
Zeya Mohsin				
Evelyn Chua (Alternate)				

EXHIBIT 1

**CONDITIONS OF APPROVAL
MAIN STREET MILPITAS
GP17-0001, ST17-0002, ZA17-0002, SD17-0013
UP17-0018, DB17-0002, LC17-0002, EA17-0005
1380 AND 1400 S. MAIN STREET
(APN 083-36-006; -007)**

General Conditions

1. General Compliance. The applicant and owner, including all successors in interest (collectively “Permittee”) shall comply with each and every condition set forth in this Permit. This General Plan Amendment Permit No. GP17-0001, Specific Plan Amendment Permit No. ST17-0002, Zoning Amendment Permit No. ZA17-0002, Site Development Permit No. SD14-0004, Conditional Use Permit No. UP17-0018, Density Bonus Permit No. DB17-0002, Lot Combination Permit No. LC17-0002, and Environmental Assessment Permit No. EA17-0005 (collectively “Permit”) shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed.
2. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit.
3. Acceptance of Permit. Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:
 - a. Acceptance of this Permit by Permittee; and
 - b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.
4. Permit Expiration. Pursuant to Section XI-10-64-06 of the Milpitas Zoning Code, this Permit shall become null and void if the activity permitted by this Permit is not commenced within two (2) years from the date of approval, or for a project submitted with a tentative map, within the time limits of the approved tentative map. Pursuant to Section XI-10-64.06(B) of the Milpitas Zoning Code, an activity permitted by this Permit shall be deemed to have commenced when the project:
 - a. Completes a foundation associated with the project; or
 - b. Dedicates any land or easement as required from the zoning action; or
 - c. Complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.

5. Time Extension. Pursuant to Section XI-10-64.07 of the Milpitas Zoning Code, unless otherwise provided by State law, Permittee shall have the right to request a one-time extension of the Permit if the request is made in writing to the Planning Division prior to the expiration date of the approval. **(P)**
6. Project Job Account. If Permittee's project job account is at any time delinquent or below the required deposit amount, City will not continue to review or process the application until Permittee's private job account is paid in full and the required deposit has been made. Additionally, prior to the issuance of any building permit or occupancy permit, as applicable, Permittee shall pay in full the project account balance and establish a remaining balance of at least twenty-five percent (25%) of the required initial deposit. **(P/E)**
7. Notice. Pursuant to California Government Code Section 66020, any protest filed in court relating to the imposition of fees, dedication, reservations, or other exactions to be imposed on the development project shall be filed within ninety (90) days after the date of the adoption of this Resolution. This provision serves as notice from the local agency to the Permittee that the ninety (90) day period in which the applicant may file a protest has begun under California Government Code Section 66020(d)(1).
8. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. Permittee shall pay all required fees and charges to the City at the rate in effect at time of building permit issuance, or, the rate in effect when the fees and charges are due and paid in full to the City. There is no vesting of any fees or charges with the adoption of this Resolution. **(ALL)**
9. Conditions. Each and every condition set forth in this Exhibit shall apply to the project and continue to apply to the project so long as the Permittee is operating the project under the permits and approvals in this Resolution. **(ALL)**
10. Compliance with Laws. The construction, use, and all related activity authorized under this Permit shall comply with all applicable local, state, and federal laws, rules, regulations, guidelines, requirements, and policies. **(CA/P)**
11. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit.
12. Indemnification. To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or

in any manner relate (directly or indirectly) to (i) City's approval of the project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use, or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition.

13. Certificate of Insurance: Permittee shall provide certificate of insurance and name City as an additional insured in its insurance policies for the Project.
14. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section XI-10-63.06 of the Milpitas Zoning Code.
15. Severability. If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision, or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding, and fully enforceable.
16. Development in Conformance with Approved Plans: Permittee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on August 22, 2018, in accordance with these Conditions of Approval. Any deviation from the approved site plan, elevations, materials, colors, landscape plan or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review, and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**
17. Compliance with Fire Department and California Fire Code. The Project shall comply with the requirements of the Milpitas Fire Department and the California Fire Code as adopted by the City. Changes to the site plan and/or building(s) requires review and approval by the Fire Department. **(F)**
18. Compliance with Building Department. The project shall comply with the requirements of the Building Department and the International Building Code. **(B)**

PLANNING CONDITIONS

19. Signage. Prior to any building permit issuance for signage, the Permittee shall submit a Site Development Permit or Minor Site Development Permit application for any proposed signage to be located on the building or site. Sign plans shall demonstrate compliance with the Milpitas Sign Ordinance and design guidelines. **(P)**
20. Pedestrian Plaza Elements. The Permittee shall be required to replace/repair all private permanent and non-permanent structures within any public utility easement within the front pedestrian plaza as a result of maintenance or repair of public utilities. This conditions shall be satisfied by recordation of a deed restriction against title prior to on-site improvement building permit issuance. **(P/E)**
21. Water Feature. The Permittee shall work with the Land Development/Engineering Department to properly place all private permanent structures, including, but not limited to, the proposed water feature and low seat walls, located within the front pedestrian plaza, in a manner that will not obstruct maintenance access to public underground utilities located on private property, prior to obtaining an on-site improvement permit. **(P/E)**
22. Pedestrian Plaza Design. The Permittee shall work with the Planning Department regarding any alterations to the design of the proposed pedestrian plaza. Any proposed changes to the pedestrian plaza requires Community Development Director approval, and may require review from the Planning Commission. **(P)**
23. Proposed Venting: The project should incorporate venting systems that have the least amount of penetrations along the exterior facades to the extent feasible. If venting is proposed through the ceiling, a parapet wall (or similar structure) shall be installed to mask the vent from the view of the public right-of-way. **(P)**
24. Equipment Screening. All rooftop equipment shall be adequately screened from the parking lot areas and the public street. All ground mounted equipment shall be adequately screened, if feasible, and subject to the Planning Division review and approval. If the screening is proven infeasible as solely determined by Planning Director, then all ground mounted equipment and surrounding bollards (if any) shall be of design and color that will minimize visual impact. **(P)**
25. Public Art Requirement. Permittee shall comply with the City's Public Art Requirements for Private Development, as set forth in Milpitas Municipal Code Section XI-10-14. The Project shall incorporate a public art work component to the satisfaction of the Planning and Neighborhood Services Director and the Arts Commission. **(P)**
26. Tandem Parking. The Permittee shall insure that all future residents are aware that space in tandem parking areas must be maintained so as to allow the parking of two (2) vehicles at all times. This may be accomplished by including this provision within the rental restrictions within the property. Additional Tandem Parking over 61 pairs (122 parking spaces) require a Conditional Use Permit Amendment

27. Bicycle Racks. A minimum of fourteen short-term bicycle spaces consistent with TASP Streetscape Elements shall be installed within the Project (5% of 289 parking stalls, per TASP Chapter 5, pg. 5-61).
28. Trees. The project will remove 24 trees and replace with 88 trees, in conformance with the plans approved by City Council on _____, 2018. No protected or heritage trees, as defined by MMC X-2-7 ('Tree Protection and Heritage Tree Program'), will be removed. Of the 88 trees replaced, at least one of those trees will be Jacaranda.
29. Street Lights: Permittee shall provide street lighting along all street frontages consistent with current Midtown Specific Plan standards subject to the review and approval of the Planning Division. Permittee shall likewise install pedestrian scale lights along all public and private street frontages. The Permittee shall submit a photometric plan to determine appropriate light levels with submittal of on-site improvement plans. Street lights per Midtown Specific Plan (and instead of Transit Area Specific Plan standards) are required because the current and future street frontage along S. Main Street include Midtown Specific Plan street lights.
30. Affordable Agreement. Prior to final building inspection and occupancy for a project containing affordable units, the applicant shall execute and record at the Santa Clara County Recorder's Office the City's Agreement Imposing Restrictions on Real Property, which Agreement shall explain the affordability requirements. The agreement shall be approved by the Milpitas City Attorney prior to recordation.
31. Retaining Affordability. A developer shall agree to, and the City shall insure continued affordability of, all very low-income density bonus units for Fifty-Five (55) years or a longer period of time, if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program.

ENGINEERING CONDITIONS

PRIOR TO CONSTRUCTION PLAN SUBMITTALS

*The following conditions shall be met **prior to** any detailed construction plan check submittals (Building or Engineering, except demolition and rough grade plans), unless otherwise approved by the Director of Engineering/City Engineer. City reserves the right to reject any plan check submittal if any of the following conditions are not met. (E)*

32. Modifications: The Site Development Plan dated August 8, 2018 is subject to change during the plan check stage based upon City's previous comments and conditions stated herein.
33. Solid Waste and Recycling Handling Plan: Permittee shall submit final Solid Waste and Recycling Handling Plan based upon City's previous comments for City's review and approval by the Engineering Department. The subject Plan shall show calculations of waste generation volumes and how materials will be transferred from the waste generation areas to the trash enclosure/external collection point; demonstrate how recycling shall have a separately maintained process from garbage handling; address other requirements such as waste

generation and compactor sizing, chute shut-off and property management responsibility for bin management and litter control; and procure sufficient service frequency.

34. Stormwater Control Plan: Permittee shall submit City approved final Stormwater Control Plan (SWCP) that complies with the latest Municipal Regional Stormwater NPDES Permit, including Low Impact Development (LID) Section C3.c.i.(2)(b) measures for harvesting and reuse, infiltration, or evapo-transpiration, for City's review and approval by the Engineering Department.
35. Photometric Analysis: Permittee shall submit streetlight photometric analysis for City's review and approval by the Engineering Department along South Main Street project frontage that meet the Illuminating Engineering Society of North America (IESNA), RP8, for roadway and sidewalk lighting standards and City standard design guidelines.
36. Submittal Requirements: Permittee to ensure that all plan check submittals are in accordance with City's submittal check list for each permit type, including but not limited to, payment of permit fees and/or fee deposit at the time of the submittal.
37. Project Job Account/Fee Deposit: Permittee shall open a new PJ account as a deposit to cover the costs for Engineering Department's services for review and inspection of the project. The amount shall be at 10% of the public improvement cost estimates as prepared by the Permittee's engineer.
38. Coordination with other Projects: Permittee shall utility designs with City project 2-1230 in advance prior to any plan submittal.

PRIOR TO OFF-SITE PLAN APPROVAL/ENCROACHMENT PERMIT ISSUANCE

*The following conditions shall be addressed as part of the off-site improvement plan review and shall be met **prior to** encroachment permit issuance, unless otherwise approved by the Director of Engineering/City Engineer. (E)*

39. Public Improvement Design Standards: All public improvements shall be designed and constructed in accordance with all applicable public improvement design standards, including but not limited to:
 - a. Milpitas Design Guidelines:
(<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/design-guidelines/>);
 - b. Standard details and specifications:
(<http://www.ci.milpitas.ca.gov/milpitas/departments/engineering/standard-details-and-specifications/>);
 - c. Transit Area Specific Plan design guidelines:
(http://www.ci.milpitas.ca.gov/_pdfs/engDesignGuidelines/en_dg_vi_transitAreaSpecific.pdf);
 - d. Midtown Specific Plan design guidelines:
(<http://www.ci.milpitas.ca.gov/planning-documents/midtown-specific-plan/>)
(http://www.ci.milpitas.ca.gov/_pdfs/plan_plan_midtown.pdf); and

- e. Americans with Disabilities Act (ADA) requirements, where applicable.
40. Sanitary Sewer Calculations: Permittee shall submit a completed “Sewer Needs Questionnaire” form and sanitary sewer calculations to justify lateral size design, allocation of discharge for each of the lateral, and impact to the existing main. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
41. Storm Drain Design: Permittee shall submit storm drain hydrology and hydraulic calculations based upon a 10-year storm event to justify the size of the storm drain lateral flowing full, without surcharging the main line pipe, and to be reviewed and approved by the Engineering Department.
42. Domestic Water and Fire Service Calculations: Permittee shall submit potable water and fire service calculations to confirm adequacy of lateral size, pressure and flow, to be reviewed and approved by the Engineering Department and Fire Department. Hydraulic modeling analysis by the City and paid by the Permittee may be required as needed. Permittee shall be responsible to implement any necessary improvements if there is any identified deficiency to the existing main as a result of the project.
43. Specific Improvements: In addition to standard public improvements required under Milpitas Municipal Code (MMC) Title XI, Chapter 1, Section 7, Permittee shall install other specific improvements listed below including incidental improvements as required by the City as part of the encroachment permit.
- a. Installation of separate water service tap and meter for each of the following services: residential, non-residential, irrigation, and fire.
 - b. Installation of separate utility service lines (domestic water, fire service, sanitary sewer) for residential and non-residential
 - c. Installation of radio-transmitted water meters with a meter antenna, any repeaters or transmitters as needed with dedicated power supplies at no cost to the City at locations acceptable to the City to ensure accurate and timely reception of meter readings. Permittee shall execute a recorded instrument providing dedicated space, access rights and dedicated power supplies to the City for operation/maintenance/repair/replacement of subject radio antenna.
 - d. Installation of new street tree wells along the project frontage. The locations, spacing of tree wells and tree species shall be in compliance with applicable City standards and details.
44. Abandonment of Existing City Utilities: Permittee shall cap, abandon or remove any unused existing public utilities based upon City’s Abandonment Notes and to the City’s satisfaction.
45. Relocation and Adjustment of Existing Public Utilities: Permittee shall relocate and/or adjust existing public utilities as needed that are in conflict with the proposed improvements.
46. Water Service Agreement: Permittee shall complete a water service agreement to obtain water service.

47. Encroachment Permit: Prior to any work in the public right-of-way and/or public easement, obtain an encroachment permit with insurance requirements for all public improvements including a traffic control plan per the latest California Manual on Uniform Traffic Control Devices (MUTCD) standards to be reviewed and approved by the Engineering Department.
48. Pothole Encroachment Permit: Due to multiple new utility service connections on major/collector streets, Permittee shall pothole and verify all potential utility crossing conflict as part of the public improvement plan during the design stage.
49. Utilities: Permittee shall obtain approval of all utility engineering and design to ensure that any proposed public utility relocations on the project site, as well as within the public right-of-way, are acceptable to the City for perpetual operation/repair/ maintenance of City utilities and to optimize utility right-of-way management.
50. Utility Protection: All existing public utilities shall be protected in place, or if necessary relocated as approved by the City Engineer. No Permanent structure is permitted within City easements, and no trees or deep-rooted shrubs are permitted within City utility easements, or where the easement is located within landscape areas except for as identified in condition number 20 and 21 of this Resolution.
51. Backflow Devices: All backflow devices shall be located outside of city easements throughout the site.

PRIOR TO BUILDING PERMIT ISSUANCE

*The following conditions shall be addressed during the building plan check process and shall be met **prior to** any building permit issuance (except demolition permit and rough grade permit), unless otherwise approved by the Director of Engineering/City Engineer. (E)*

52. Building Foundations: Building foundations adjacent to public utility easements shall be designed to be self-supporting such that the building weight is not required to be supported during shoring and excavation for the purposes of maintenance or installation of new utilities within the easement.
53. Lot Combination / Lot Merger: Permittee shall process and obtain approval for a lot merger by the Engineering Department.
54. Public Easement Dedication: Permittee shall dedicate necessary emergency vehicle access easements, public service utility easements, street easements, public access easement and other public easements deemed necessary for the project.
55. Abandonment/Quitclaim Easements: Permittee shall abandon/quit claim existing private easement(s) that are in conflict with or unnecessary for the project.
56. Concurrent Off-site Plan Reviews: Permittee shall submit separate off-site improvement plans for City's review and approval by the Engineering Department.

57. Utility Company Approval: Permittee shall obtain approval letters from utility companies (PG&E, AT&T, Comcast) for abandonment of existing and dedication of new public service utilities easements.
58. Annexation to the Community Facilities District: Permittee shall submit an executed petition affirmatively consenting to annex the subject property to the Community Facilities District (CFD) 2008-1, and agree to pay the special taxes levied by the CFD 2008-1 for the purpose of maintaining the public services. The CFD annexation process shall be completed prior to final map approval. Permittee shall comply with all rules, regulations, policies and practices established by the State Law and/or by the City with respect to the CFD including, without limitation, requirements for notice and disclosure to future owners and/or residents. This condition of approval is nonseverable from the Permit and invalidation or limitation of this condition invalidates the Permit, condition 15 notwithstanding.
59. Easements on the Building Permit Plans: Permittee shall depict all existing easements to remain based upon current preliminary title report and depict new easements on applicable building permit plans.
60. Stormwater Facility Operation & Maintenance Plan: Permittee shall incorporate design details into applicable construction plans in accordance with City approved Storm Water Control Plan (SWCP). Permittee shall also submit Stormwater Facility Operation & Maintenance Plan that describes operation and maintenance procedures needed to ensure that treatment Best Management Practices (BMPs) and other storm water control measures continue to work as intended and do not create a nuisance (including vector control).
61. Water Supply and Force Majeure. The City reserves the right to suspend the issuance of building permits in case of an emergency declaration of water supply in the case of a major catastrophic event that restricts City's assurance to provide water supply.
62. Water Efficient Landscapes: Permittee shall comply with Milpitas Municipal Code Title VIII, Chapter 5 Water Efficient Landscapes for landscape design, including but not limited to, providing separate water meters for domestic water service and irrigation service and providing applicable landscape documentation package.
63. Solid Waste and Recycling Facility Design: Permittee shall comply with all applicable City design guidelines/details associated with haul route, turning radius, vertical and horizontal clearance, trash enclosure, staging area, storage area, etc.
64. Recycling Report Prior to Demolition Permit Issuance: Permittee shall submit Part I of a Recycling Report on business letterhead to the Building Department, for forwarding to the Engineering Department for review and approval. The report shall describe the following resource recovery activities:
- a. What materials will be salvaged.
 - b. How materials will be processed during demolition.
 - c. Intended locations or businesses for reuse or recycling.

d. Quantity estimates in tons (both recyclable and for landfill disposal). Estimates for recycling and disposal tonnage amounts by material type shall be included as separate items in all reports to the Building Division before demolition begins. Permittee shall make every effort to salvage materials for reuse and recycling, and shall comply with the City's demolition and construction debris recycling ordinance.

65. Recycling Report Prior to Building Permit Issuance: Permittee shall submit Part II of the Recycling Report to the Building Department, for forwarding to the Engineering Department. Part II of the Recycling Report shall be supported by copies of weight tags and/or receipts of "end dumps." Actual reuse, recycling and disposal tonnage amounts (and estimates for "end dumps") shall be submitted to the Building Department for approval by the Engineering Department prior to inspection by the Building Department.
66. Development Fees. Permittee shall pay the following development fees. The information listed in items "a" through "f" are based upon current fee rates; however, those fee rates are subject to change. The exact fee amount shall be determined at the time of building permit fee payment.
- a. Storm water connection fee at \$16,771/acre for residential and \$21,562/acre for commercial.
 - b. Water connection fee at \$1,164/unit for residential and \$5.97/gpd for commercial, based upon increased water usage.
 - c. Sewer connection fee at \$1,406/unit for residential and \$8.52/gpd for commercial, based upon increased average wastewater flow.
 - d. 2.5% of applicable fees in accordance with City Resolution No. 7590 as Permitting Automation Fee.
 - e. FEMA Flood Zone Designation Letter fee in the amount of \$100.00 each
 - f. \$32,781 for each residential unit, \$22.80 per square foot of retail area, and \$36.60 of office area within the Project, as required per City Council Resolution No. 8433, Resolution No. 8345, and Ordinance No. 277.1

The following condition does not include any required Building Permit Fees, Park in-Lieu Fees, and Public Art in-Lieu Fees, if applicable.

DURING CONSTRUCTION

The following conditions shall be complied with at all times during the construction phase of the project, unless otherwise approved by the Director of Engineering/City Engineer. (E)

67. Dewatering. If dewatering is needed during construction, Permittee shall obtain a Short-Term Industrial Wastewater Permit from the San Jose/Santa Clara Water Pollution Control Plant for discharging the groundwater to a sanitary sewer system.
68. Prohibition of Potable Water Usage: Permittee shall use recycled water for construction purposes, including dust control and compaction. Permittee shall comply with MMC VIII-6-5.00 and 6-6.00 where potable water usage is prohibited, unless otherwise approved by the City Council.

69. Construction Staging and Employee Parking: Permittee shall place all construction related materials, equipment, and arrange construction workers parking on-site and not located in the public right-of-ways or public easements.
70. Water Shut-down Plan: Permittee shall provide a water shut-down plan at least seven days in advance of the shut-down in coordination with the Engineering Inspector, and notify affected property owners/tenants when cut-in tee(s) is/are required.

PRIOR TO FIRST OCCUPANCY

*The following conditions shall be met **prior to** first building occupancy on either lot, unless otherwise approved the Director of Engineering/City Engineer.*

71. Completion of Public Improvements: Permittee shall complete all public improvements, including but not limited to Montague Expressway, and frontage improvements along Watson Court, as shown on City approved plans
72. Stormwater Management Facilities O&M Agreement: Permittee shall execute and record a Stormwater Management Facilities Operation and Maintenance (O&M) Agreement associated with the SWCP O&M Plan, including perpetual maintenance of treatment areas/units, as reviewed and accepted by the Engineering Department. The subject O&M Agreement shall be referenced in the CC&Rs, if applicable.
73. Landscape Certificate of Completion: Permittee shall submit a Certificate of Substantial Completion that complies with the Milpitas Municipal Code Water Efficient Landscapes ordinance.
74. Record Drawings: Permittee shall submit record drawings in AutoCAD, Tiff, and PDF formats for City records. Record drawings shall include all public improvements. Additionally, if the project uses recycled water, the permittee shall also submit record drawings of on-site irrigation facilities.
75. Private Job (PJ) Balance: Permittee shall pay for any remaining balance from the Private Job deposit.
76. Parking Management: Upon completion of the project, the owner/permittee shall take measures to maximize on-site parking utilization for its residents, tenants, and guests. The owner/permittee shall at no time create a condition by pricing, operation, allocation, and/or management where residents, tenants, or guests have a greater preference to park off-site rather than on-site. The owner/permittee shall provide relevant on-site parking management information to the City upon request and grant access to the City to monitor and review on-site parking management, allocation, pricing, operation, and availability.
77. Slurry Seal: The permittee/owner shall slurry seal the project street frontage up to full street width to cover all utility trenches to the satisfaction of the Transportation Manager.

PLANNING & BUILDING PROJECT-RELATED TASP MITIGATION MEASURES & REQUIRED PROJECT DESIGN FEATURES

Biological Resources (TASP Policy 5.26)

78. Nesting Birds: To mitigate impacts on non-listed special-status nesting raptors and other nesting birds, a qualified biologist will survey the site for nesting raptors and other nesting birds within 14 days prior to any ground disturbing activity or vegetation removal. Results of the surveys will be forwarded to the U.S. Fish and Wildlife Services (USFWS) and CDFG (as appropriate) and, on a case-by-case basis, avoidance procedures adopted. These can include construction buffer areas (several hundred feet in the case of raptors) or seasonal avoidance. However, if construction activities occur only during the non-breeding season between August 31 and February 1, no surveys will be required. (P)

Noise (TASP Policy 5.10))

79. Noise Insulation: Prior to issuance of any building permit, Permittee shall demonstrate that the Project will meet the required 45 dBA maximum interior noise standard.

Air Quality (TASP Policy 5.16)

80. Dust Control Emissions: During the construction of the Project, Permittee shall comply with all of the following:
- a. All exposed surfaces (e.g. parking areas, staging areas, soil piles, graded areas and unpaved roads) shall be watered two times per day.
 - b. All haul trucks transporting soil, sand or other loose material off the site shall be covered.
 - c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day or more often if determined necessary by City Engineer or designee. The use of dry power sweeping is prohibited.
 - d. All vehicle speeds on unpaved roads shall be limited to 15 MPH.
 - e. All roadways, driveways and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five (5) minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
 - h. Post a publicly visible sign with the telephone number and person to contact at the City regarding dust complaints. This person shall respond and take corrective action within

48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. **(B)**

81. ROG Emissions: Prior to issuance of any building permit, Permittee shall develop, submit and obtain approval from the City of a plan to reduce ROG emissions by 17 percent or greater during the architectural coating phase of the construction. Acceptable measures to achieve this goal include, but are not limited to, using paint that contains 125 grams per liter of VOC or less, the use of pre-fabricated building materials, or a combination of both. The plan shall be implemented as approved by the City. **(B)**

Cultural Resources (TASP Policies 5.34 and 5.35)

82. Archeological Monitoring: Any future ground disturbing activities, including grading, in the Transit Area shall be monitored by a qualified archaeologist to ensure that the accidental discovery of significant archaeological materials and/or human remains is handled according to CEQA Guidelines §15064.5 regarding discovery of archeological sites and burial sites, and Guidelines §15126.4(b) identifying mitigation measures for impacts on historic and cultural resources (see Public Resources Code §§21083.2, 21084.1). In the event that buried remains are encountered, work shall be halted in the immediate area and the Santa Clara County coroner and the City of Milpitas Department of Planning and Department of Building shall be immediately contacted to determine the nature of the remains and related appropriate mitigation plan. If remains are determined to be of Native American origin, the coroner will then contact the Native American Heritage Commission (NAHC), which will in turn contact the appropriate Most Likely Descendent (MLD). The MLD will then have the opportunity to make a recommendation for the respectful treatment of the Native American remains and related burial goods. **(P/B)**
83. Paleontological Monitoring: All grading plans for development projects involving ground displacement shall include a requirement for monitoring by a qualified paleontologist to review underground materials recovered. In the event fossils are encountered, work in the area shall be halted and the City of Milpitas Department of Planning and Department of Building shall be immediately contacted to determine the nature of the remains and related appropriate mitigation plan. A qualified paleontologist shall evaluate the fossils, and steps needed to photo-document or to recover the fossils shall be taken. **(P/B)**

(P) = Planning

(B) = Building

(E) = Engineering

(F) = Fire Prevention

(CA) = City Attorney

NOTICE OF RIGHT TO PROTEST

The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

AGREEMENT

Permittee/Property Owner

The undersigned agrees to each and every condition of approval and acknowledges the NOTICE OF RIGHT TO PROTEST and hereby agrees to use the Project property on the terms and conditions set forth in this resolution.

Dated: _____

Signature of Permittee

EXHIBIT 2
CEQA ADDENDUM

MEMORANDUM

DATE: June 12, 2018

To: Michael Fossati, Senior Planner, City of Milpitas

FROM: Judith H. Malamut, AICP, Principal
Matthew Wiswell, Planner

SUBJECT: California Environmental Quality Act (CEQA) TASP FEIR Addendum for the 1380-1400 South Main Street Project, Milpitas, California

This document, prepared pursuant to the California Environmental Quality Act (CEQA) and the regulations and policies of the City of Milpitas, is an Addendum to the Milpitas Transit Area Specific Plan Project Final Environmental Impact Report¹ (TASP FEIR), which was certified by the City of Milpitas (City) in May 2008. The TASP FEIR consists of the Draft EIR and the Final Environmental Impact Report (Response to Comments Document). This Addendum evaluates whether minor changes associated with the proposed project would result in new or substantially more adverse significant effects or require new mitigation measures not identified in the TASP FEIR. The project site consists of two parcels; one is located within the planning area for the Milpitas Midtown Specific Plan² (MSP) and one within the planning area for the Transit Area Specific Plan³ (TASP). The proposed project consists of General Plan Amendments, TASP and MSP Amendments, density bonuses, and zoning district changes that are proposed for both parcels. See Attachment A for a full description of the proposed project. The City of Milpitas is the Lead Agency under CEQA. In accordance with CEQA Section 21093(b) and CEQA Guidelines Section 15152(a), this Addendum tiers off the TASP FEIR, certified in May 2008, which is hereby incorporated by reference.

INTRODUCTION

The proposed project site is comprised of two separate parcels, 1380 and 1400 South Main Street, totaling 2.13 acres in size and is located in the eastern portion of the TASP Area and southern portion of the MSP Area in Milpitas. The project site is bordered to the north by the Stepping Stone World Day Care; a railroad corridor and a vegetated channel of Penitencia Creek to the east; to the south by parking and commercial uses; and South Main Street and single-family residential uses to the west.

¹ Milpitas, City of, 2008. Milpitas Transit Area Specific Plan Final Environmental Impact Report. May.

² Milpitas, City of, 2002. *Milpitas Midtown Specific Plan*. March. Amended 2010.

³ Milpitas, City of, 2008. *Milpitas Transit Area Specific Plan*. June. Amended 2011.

The proposed project would include the merging of the two existing parcels, and the annexation of the 1400 South Main Street parcel into the TASP Area. The proposed project would change the land use designation of both properties. Both of the parcels within the project site are designated Multi-Family Residential, Very High Density (VHD) within the City's General Plan. The parcel located at 1380 South Main Street is located within the TASP Planning Area, and is within the Multi-Family Very High Density Residential Zone with a Transit-Oriented Development (TOD) Overlay (R4-TOD) TASP zoning district. The 1400 South Main Street parcel is located within the MSP Planning Area, and is within the R4-TOD MSP zoning district. The proposed project amendments would change the existing General Plan land use designations for the project site from VHD to Urban Residential (URR), amend the TASP Figure 3-1 to include the whole project site (i.e., 1400 South Main Street), amend the MSP Figure 1.1 to not include the 1400 South Main Street site, amend the TASP Zoning District Map Figure 5-21 to change the existing TASP zoning designation for the project site to Urban Residential with a TOD overlay (R5-TOD),

The proposed project would result in the demolition of the existing buildings, landscaping, and associated surface parking on the project site, and the construction of an apartment building with up to 220 residential units as well as associated landscaping and open space, parking and circulation, and infrastructure improvements.

This Addendum is prepared pursuant to CEQA Guidelines Section 15164 which states: "The lead agency or a responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred." Section 15162 specifies that "no subsequent EIR shall be prepared for that project unless the lead agency determines ... one or more of the following:"

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete was adopted, shows any of the following:
 - (A) The project will have one or more significant effects not discussed in the previous EIR;
 - (B) Significant effects previously examined will be substantially more severe than shown in the previous EIR;

- (C) Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
- (D) Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Pursuant to CEQA Guidelines Section 15164(e), the purpose of this Addendum is to summarize the proposed 1380-1400 South Main Street project, assess the proposed modifications to the project evaluated in the TASP FEIR, and identify the reasons for the City's conclusion that changes associated with the proposed project and its environmental effects do not meet the conditions described in CEQA Guidelines Section 15162 calling for preparation of a subsequent or supplemental EIR.

Attachment A to this Addendum provides a complete description of the proposed project, its location, existing site characteristics, proposed development, and required approvals and entitlements.

Attachment B to this Addendum provides the Environmental Checklist prepared for the project. This checklist is used to: (1) compare the environmental impacts of the proposed revised project with impacts expected to result from development approved in the TASP and evaluated in the TASP FEIR; (2) identify whether the proposed project would result in new or more severe significant environmental impacts; and (3) identify if substantial changes with respect to the circumstances under which the project would be undertaken since the TASP FEIR was certified would result in new or more severe significant environmental effects.

COMPARISON TO THE CONDITIONS LISTED IN CEQA GUIDELINES SECTIONS 15162 AND 15163

The following discussion summarizes the reasons that a subsequent or supplemental EIR, pursuant to CEQA Guidelines Sections 15162 and 15163, is not required to evaluate the environmental effects of the proposed project, as its potential effects were adequately evaluated in the TASP FEIR.

Substantial Changes

Per the analysis included in Attachment B, Environmental Checklist, the proposed minor modifications to the project evaluated in the TASP FEIR (i.e., plan designations and amendments and zoning amendments on two parcels to allow residential development) would not result in new significant impacts beyond those identified in the TASP FEIR, would not substantially increase the severity of impacts identified in the TASP FEIR, and would not require major revisions to the TASP FEIR. Therefore, the proposed changes to the project would be minor modifications, not substantial changes, and an Addendum is the appropriate document to address these minor modifications rather than a subsequent or supplemental EIR.

Substantial Changes in Circumstances

As described in the Environmental Checklist for each topic, environmental conditions in and around the project site have not changed such that implementation of the proposed minor modifications to the TASP FEIR would result in new significant environmental effects or a substantial increase in the severity of environmental effects identified in the TASP FEIR, and thus would not require major revisions to the Final EIR.

New Information

No new information of substantial importance, which was not known or could not have been known when the TASP FEIR was certified, has been identified which shows that the proposed minor modifications to the TASP FEIR associated with the proposed project would be expected to result in: 1) new significant environmental effects not identified in the TASP FEIR; 2) substantially more severe environmental effects than shown in the TASP FEIR; 3) mitigation measures or alternatives previously determined to be infeasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or 4) mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative. In addition, the proposed minor modifications would require no new mitigation measures, as described throughout the Environmental Checklist, because no new or substantially more severe impacts are expected beyond those identified in the TASP FEIR.

CONCLUSION

The proposed minor modifications to the TASP FEIR described in this Addendum would not require major revisions to the TASP FEIR due to new or substantially increased significant environmental effects. The analysis contained in the Environmental Checklist confirms that the modified project is within the scope of the TASP FEIR and will have no new or more severe significant effects and no new mitigation measures are required. Therefore, no subsequent or supplemental EIR or further CEQA review is required prior to approval of the proposed project, as described in this Addendum.

ATTACHMENT A PROJECT DESCRIPTION (JUNE 12, 2018)

The following describes the proposed 1380-1400 South Main Street Project (project) that includes redevelopment and a lot combination (i.e., lot merger) of two sites and construction of a seven-story building with a total of 220 residential units and a small amount of commercial space. The project site consists of two parcels; one is located within the planning area for the Milpitas Midtown Specific Plan¹ (MSP) and one in the planning area for the Transit Area Specific Plan² (TASP). The proposed project also includes the annexation of the 1400 South Main Street parcel into the TASP planning area. In addition to the description of the proposed project itself, this section includes a summary description of the proposed project's location, existing site characteristics and required approvals and entitlements. The description of the proposed project focuses on the minor modifications proposed for the project from what was included and approved in the certified Milpitas Transit Area Specific Plan Project Final Environmental Impact Report³ (TASP FEIR) to support the preparation of an Addendum to the TASP FEIR to allow development of the proposed project. The City of Milpitas (City) is the CEQA lead agency for the project.

PROJECT SITE

The following section describes the location and site characteristics for the project site and provides a brief overview of the existing land uses within and in the vicinity of the site.

Location and Surrounding Land Uses

The project site is located in the southern portion of the City of Milpitas, just north of the border with the City of San Jose. The project site consists of two individual properties, located at 1380 South Main Street and 1400 South Main Street (Assessor's Parcel Numbers [APNs] 086-23-011 and 086-23-015). The approximately 2.13-acre project site is located at the intersection of South Main Street and South Abel Street.

The project site is located along a commercial corridor of Milpitas that is predominantly developed with auto service and commercial uses along the eastern side of South Main Street, and single-family residential uses along the western side. The project site is bounded to the north by the Stepping Stone World Day Care; to the east by a railroad corridor and further east the channelized Penitencia Creek and mixed-use multi-family residential uses; to the south by parking and commercial uses; and to the west by South Main Street and single-family residential uses. The project site is in close proximity to the Great Mall shopping center in Milpitas, approximately 0.3 miles northeast of the project site.

Regional vehicular access to the project site is provided by Interstate 880 (I-880) located to the west and Interstate 680 (I-680) located east of the project site. The future Bay Area Rapid Transit (BART)

¹ Milpitas, City of, 2002. *Milpitas Midtown Specific Plan*. March. Amended 2010.

² Milpitas, City of, 2008. *Milpitas Transit Area Specific Plan*. June. Amended 2011.

³ Milpitas, City of, 2008. *Milpitas Transit Area Specific Plan Final Environmental Impact Report*. May.

Milpitas station is currently under construction and will be co-located with the Montague Transit Center, operated by the Santa Clara Valley Transportation Authority (VTA), approximately 0.8 miles east of the project site. The Main Street Light Rail Station, also operated by the VTA, is located approximately 0.2 miles from the project site. Figure 1 shows the site's regional and local context. Figure 2 shows an aerial of the existing site and surrounding land uses.

Site Characteristics and Current Site Conditions

As previously discussed, the project site consists of two individual parcels. 1380 South Main Street is developed with an approximately 11,500-square-foot vacant building, and 1400 South Main Street is developed with an approximately 5,600-square foot vacant building. A total of approximately 145 surface parking spaces and 18 mature trees are located on the project site. According to the Federal Emergency Management Agency (FEMA) the project site is located in Zone X, which is a designated floodplain related to Penitencia Creek. Access to the project site is via South Main Street.

Existing General Plan and Zoning

Both of the parcels within the project site are designated Multi-Family Residential, Very High Density (VHD) within the City's General Plan.⁴ The parcel located at 1380 South Main Street is located within the TASP Planning Area, and is within the Multi-Family Very High Density Residential Zone with a Transit-Oriented Development (TOD) Overlay (R4-TOD) TASP zoning district. The 1400 South Main Street parcel is located within the MSP Planning Area, and is within the R4-TOD MSP zoning district. Figure 3 shows the existing General Plan Land Use Designations and zoning for each of the parcels.

MILPITAS TRANSIT AREA SPECIFIC PLAN

In 2008, the City of Milpitas adopted the Milpitas TASP as a guide for development and redevelopment of its light industrial corridor near the future Milpitas BART and current VTA station. The goals of the TASP are to create an attractive and livable neighborhood within walking distance of the future Milpitas BART and VTA light rail transit stations and to transform the older, light industrial area into a residential and commercial area that would meet demand for housing, offices, and shopping in the Bay Area. Milpitas designated the TASP to accommodate substantial growth, minimize impacts on local roadways, and reduce urban sprawl at the periphery of the region.

The TASP identifies subdistricts within the planning area, each having its own policies related to street design, land use, building height, setbacks, parks and building design. The project site is located within the Trade Zone/Montague subdistrict. The Trade Zone/Montague subdistrict is identified as being an attractive residential district with ample green space that would serve transit users as it is located directly adjacent to the BART station and VTA light rail.

Environmental impacts associated with implementation of the TASP were evaluated in the TASP FEIR. The TASP FEIR, certified in 2008, evaluates the environmental impacts of approximately: 1) 7,100 units of residential development; 2) 18,000 new residents; 3) 4,200 new jobs; 4) 1.0 million square feet of office space; 5) 285,000 square feet of retail space; and 6) 175,000 square feet of hotels.

⁴ Milpitas, City of, 1994. *City of Milpitas General Plan*. December.

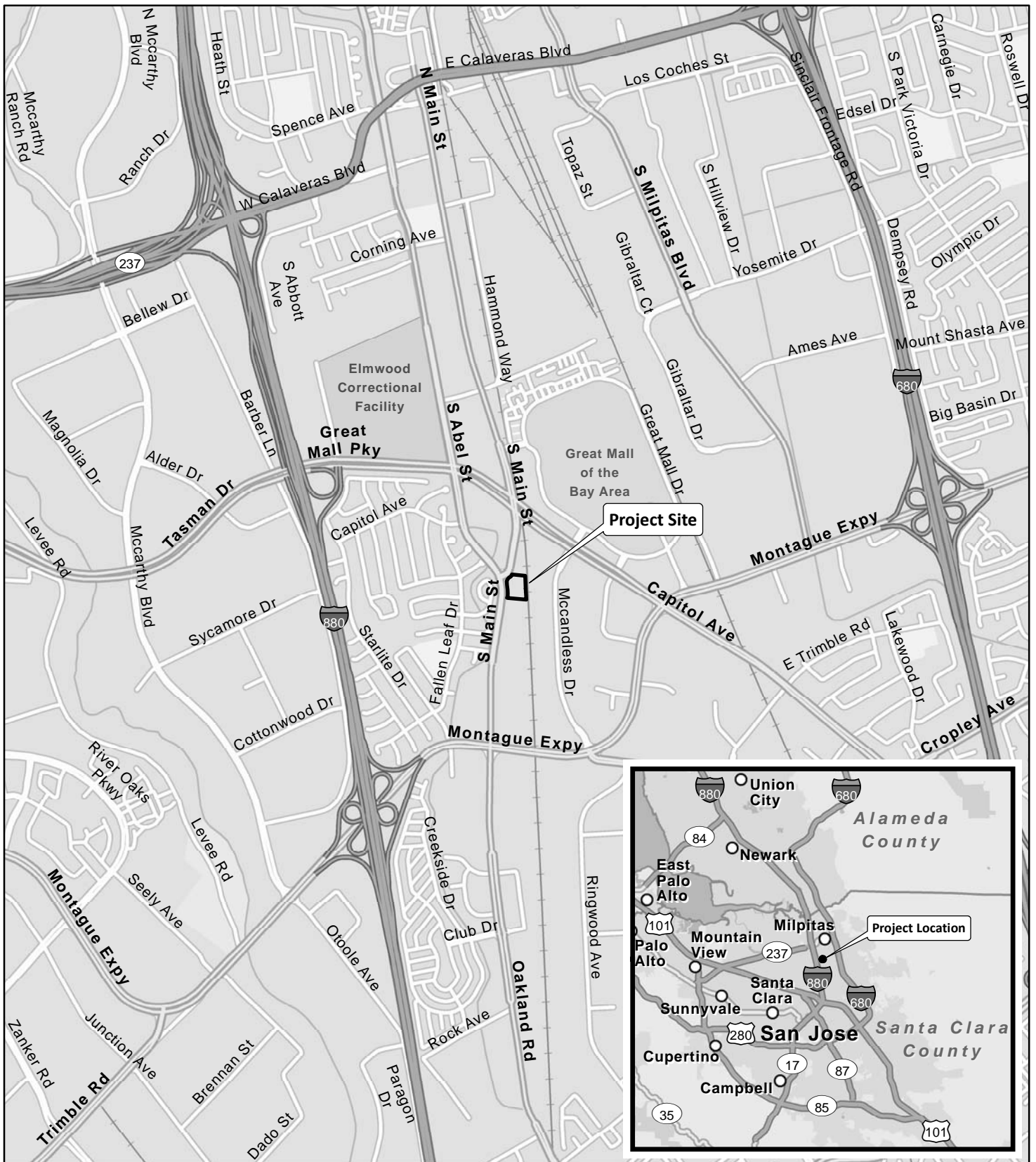
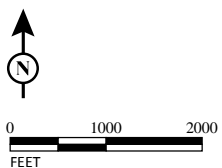


FIGURE 1

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SOURCE: ESRI STREETMAP NORTH AMERICA (2012).

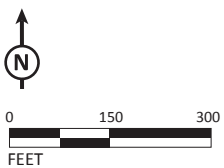
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1380-1400 South Main Street Project
Project Location and Regional Vicinity Map



FIGURE 2

LSA



 Project Site

1380-1400 South Main Street Project

Aerial Photograph of the Project Site and Surrounding Land Uses

SOURCES: GOOGLE EARTH, 9/1/17; LSA, 2018.

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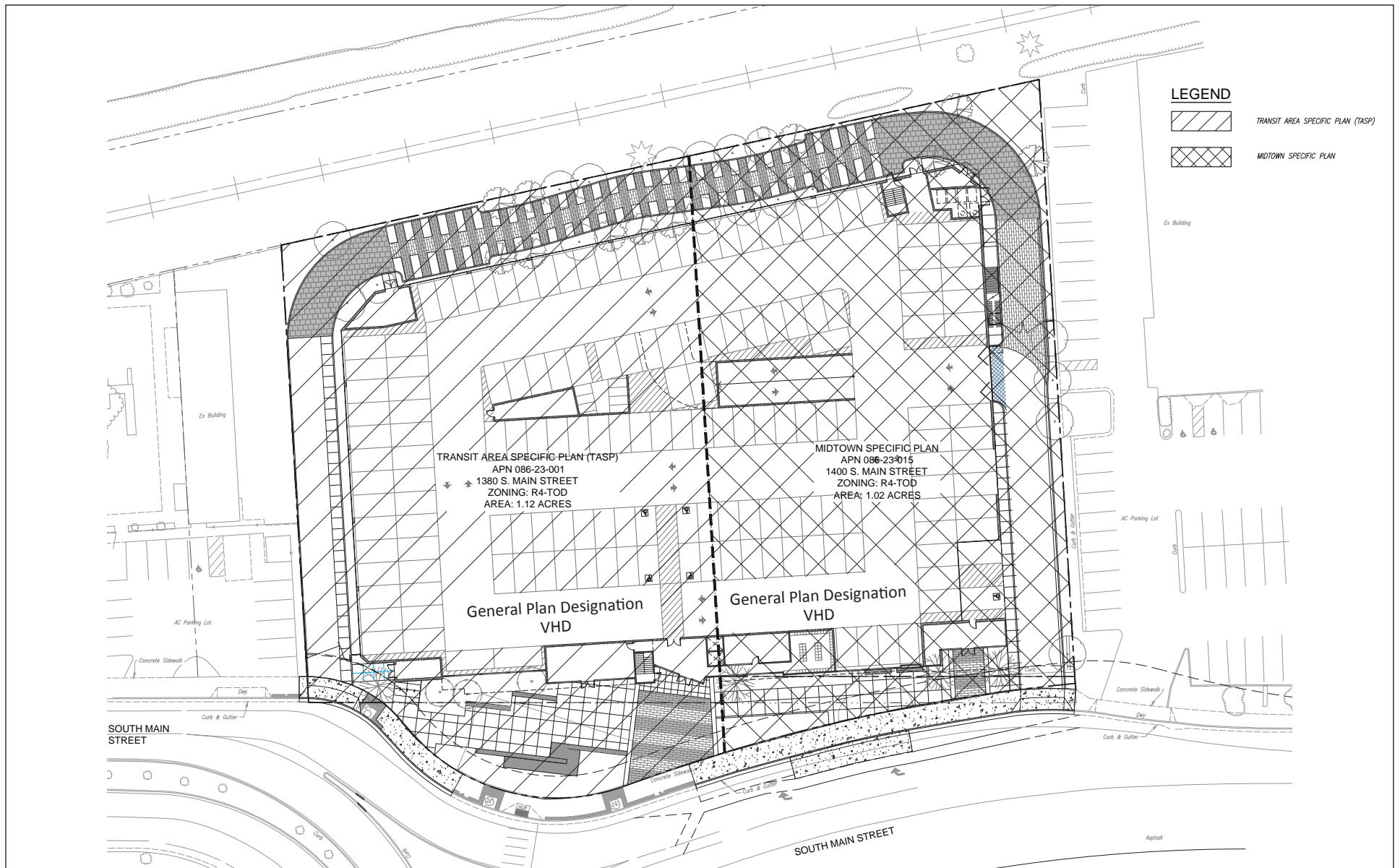
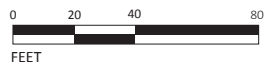


FIGURE 3

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SOURCES: CORE RESIDENTIAL; JMH WEISS, INC., 2017.

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1380-1400 South Main Street Project
Existing Plan and Zoning Designations

MILPITAS MIDTOWN SPECIFIC PLAN

In 2010, the City of Milpitas adopted the updated Milpitas MSP as a guide for development for an approximately 589-acre area of land which was undergoing changes related to its growing role as a housing and employment center in Silicon Valley. Development activity over the past several years has included approval and/or construction of over 2,224 units of housing, reinvestment in the Great Mall, extension of the Santa Clara Valley Transportation Authority's (VTA's) Tasman East Light Rail Transit (LRT) line, and proposals to extend Bay Area Rapid Transit (BART) through the area as part of the San Jose extension.

Environmental impacts associated with implementation of the MSP were evaluated in the Final Environmental Impact Report⁵ (MSP FEIR). The MSP FEIR, certified in 2002, evaluates the environmental impacts of approximately: 1) 4,860 units of residential development; 2) 61,000 square feet of new retail/dining uses; 3) 720,000 square feet of new office uses; 4) 300,000 square feet of new general commercial uses; and 5) 49 acres of new parks and open space.

The MSP identifies eight sub-areas within the planning area, each including opportunity areas for development. The project site is located within the South Main/Abel sub-area. The MSP includes design guidelines for the South Main/Abel sub-area which call for aggregation of properties, street orientation, an internal focus, well-landscaped lots, and the provision of off-street parking.

PROPOSED PROJECT

The proposed project involves an application for a specific development proposal for a lot combination for the 1380 and 1400 South Main Street parcels and a requested General Plan Amendment, TASP Amendment, and Rezoning for both parcels to annex the site into the TASP Planning Area. An additional MSP Amendment for the 1400 South Main Street parcel is also part of the project to remove that site from the MSP Planning Area. A description of the proposed amendments is provided in Section D, Amendments and Permits.

This section provides a description of the proposed residential development project for the project site as identified in the materials provided by Core Residential, LLC (the project applicant) dated November 2017. The project applicant proposes to demolish the existing buildings, landscaping, and associated parking on the project site and construct a seven-story building with a total of 220 residential units as well as associated landscaping and open space, parking and circulation, and infrastructure improvements. A conceptual site plan is shown in Figure 4.

The TASP FEIR evaluated the environmental impacts associated with implementation of the TASP within which the proposed project would be located. Table A shows the housing units and population assumptions evaluated within the TASP FEIR, the number of approved units and under construction units and inclusion of the proposed project. As shown, the development associated with the proposed project is within the amount of growth evaluated and cleared within the TASP FEIR.

⁵ Milpitas, City of, 2002. *Final EIR for the Milpitas Midtown Specific Plan*. January.

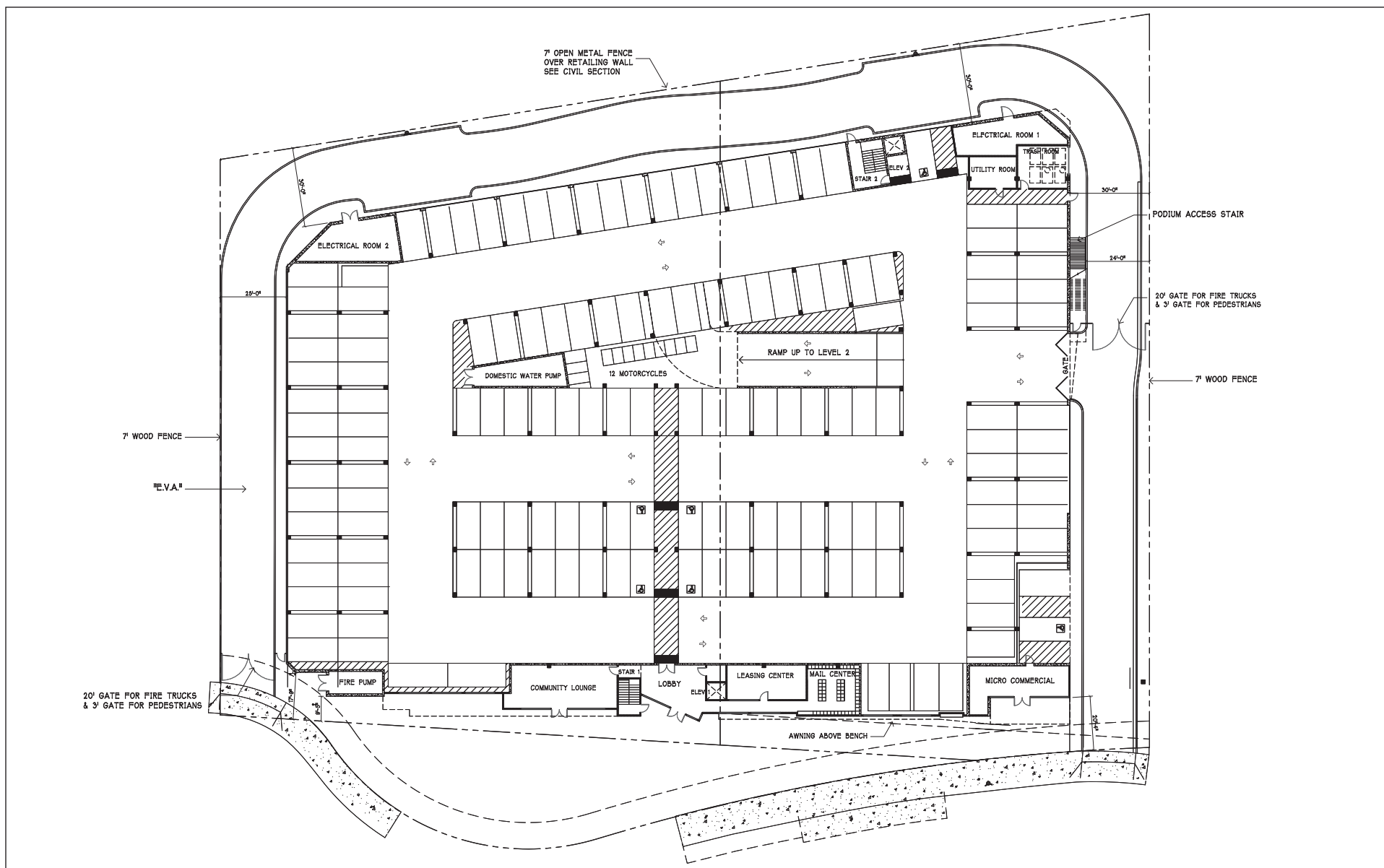


FIGURE 4

SOURCES: CORE RESIDENTIAL; LPMD ARCHITECTS, 2017.

1380-1400 South Main Street Project
Conceptual Site Plan

Table A: Existing and Proposed Housing Units and Population within the TASP Area

	Evaluated Within the TASP FEIR	Approved	Proposed Project	Remaining Development Available
Housing Units	7,109 ^a	6,562 ^b	220	547
Population	17,915 ^a	16,490 ^b	554 ^b	1,425 ^b

Source: Fossati, Michael, 2018. Senior Planner, City of Milpitas. March 7.

^a Milpitas, City of, 2008. Final Transit Area Specific Plan EIR.

^b Estimated population associated with approved units, under construction units, and the proposed project was determined by using the residents per unit evaluated within the TASP FEIR (17,915 residents / 7,109 units = 2.52 residents per unit).

Residential and Commercial Development

The proposed project would result in the construction of up to 220 residential apartment units in five stories above a two-story parking garage, at a density of 102.8 dwelling units per acre. The unit mix includes studio units averaging approximately 600 square feet in size, one-bedroom units averaging 735 square feet in size, and two-bedroom units averaging 1,000 square feet in size. Additionally, the proposed building would include 10 income-restricted units available to residents qualifying at the Very Low Income (VLI) level. The ground level of the proposed building would also include a micro-retail space at the southwest corner of the building, a community lounge, a lobby, a leasing center, and a mail center. The proposed project would include a meeting room, a community use room, a lounge, a fitness room/yoga studio, and a library. Figure 5 shows a typical floor plan for the residential levels.

The proposed project would consist of a single continuous building with residential units along the edges of the project site, surrounding an interior podium courtyard on the third story. The proposed building would be seven stories in height and would not exceed 85 feet. Front yard setbacks would range between 17 and 20 feet and side and rear yard setbacks would be a minimum of 25 feet. A conceptual building elevation is shown in Figure 6.

Open Space and Landscaping

The proposed project would include a total of 0.96 acres of common open space and landscaped areas. A total of approximately 0.7 acres would consist of private common area open space for use by project residents. Private open space would include an approximately 0.4-acre flex-space along the eastern border of the project site that would include a landscaped walkway with permeable pavers that would double as the emergency vehicle access. Approximately 0.3 acres would consist of an interior courtyard that would be located on the third floor, surrounded by apartment units. This courtyard would include a spa, an outdoor kitchen, and an outdoor lounge. The remaining approximately 0.26 acres of open space would be dedicated for public use along the South Main Street frontage, the western border of the project site. This public open space would include a pedestrian plaza with access to the micro-retail, an enhanced bus stop, a ride share pickup and drop-off space, and a public bike share station.

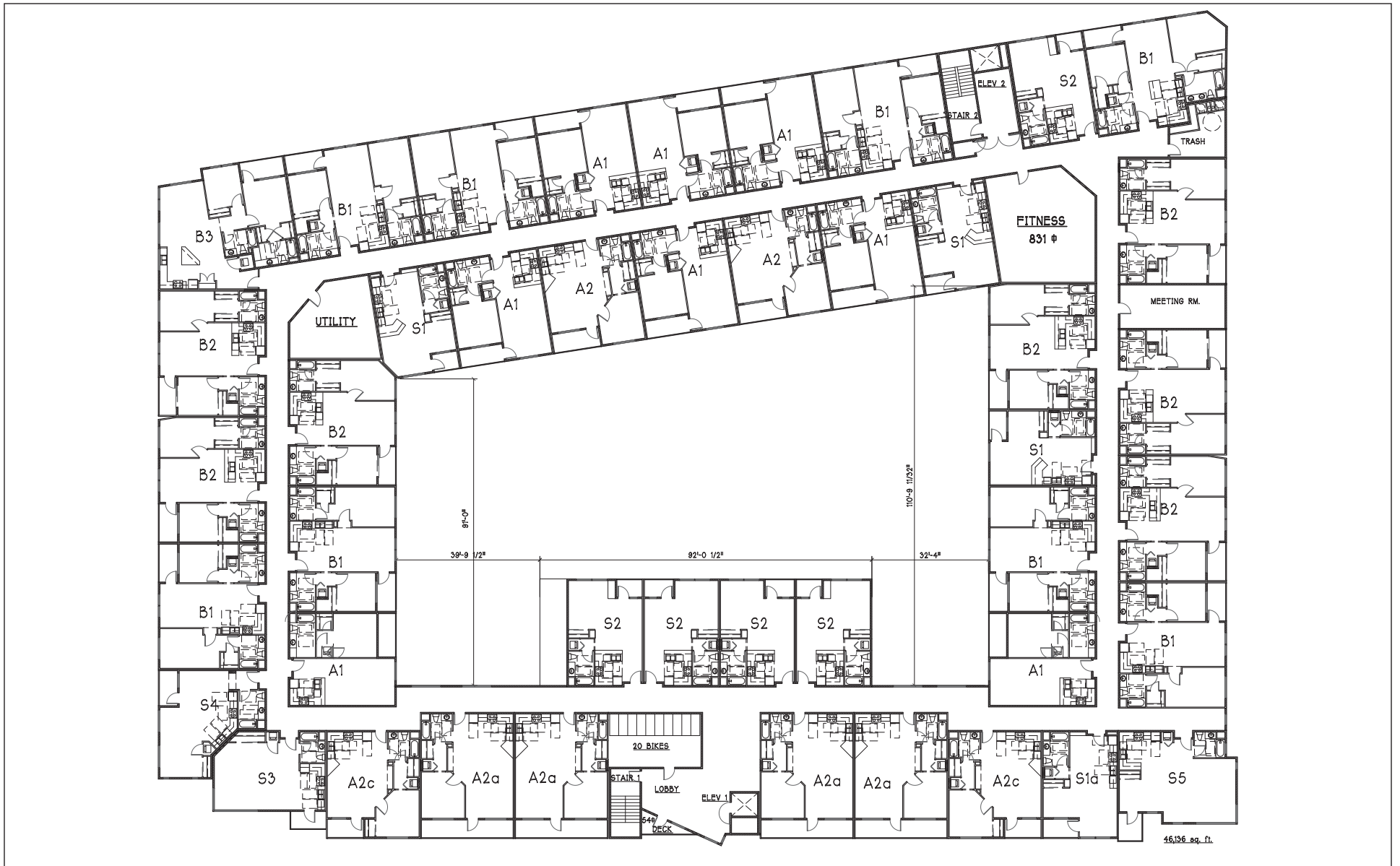
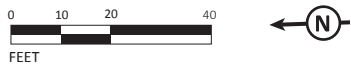


FIGURE 5

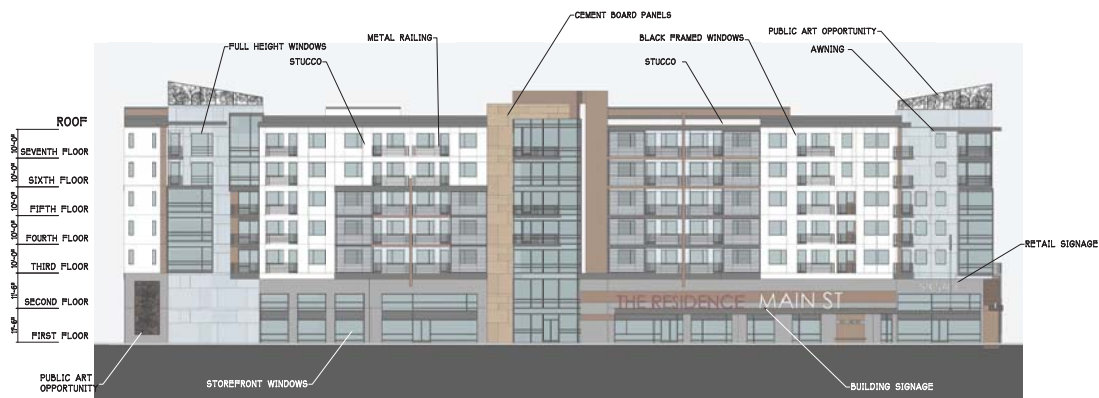
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SOURCES: CORE RESIDENTIAL; LPMD ARCHITECTS, 2017.

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1380-1400 South Main Street Project
Typical Residential Floor Plan



① Conceptual Front Elevation



② Conceptual Right Elevation (South Facing)



③ Conceptual Rear Elevation (East Facing)



④ Conceptual Left Elevation (North Facing)

LSA

FIGURE 6

NOT TO SCALE

SOURCES: CORE RESIDENTIAL; LPMD ARCHITECTS, 2017.

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1380-1400 South Main Street Project
Conceptual Building Elevations

There are currently 18 existing trees located on the project site. None of these trees qualify for Heritage or Specimen status. The proposed project would include the removal of all 18 trees as part of construction and excavation activities. A total of approximately 60 new trees would be planted on the project site, as shown in Figure 7.

Access, Circulation, and Parking

Access to the project site would be provided by a new driveway along the southern boundary of the project site. This driveway would provide access to the interior parking garage, which would consist of the first two levels of the proposed building. The parking garage would provide an estimated total of 320 automobile spaces and 31 motorcycle spaces. 80 bicycle lockers would be provided throughout the building. A new driveway would extend around the edge of the project site and serve as an emergency vehicle access lane, terminating at an emergency exit gate at the northwest corner of the project site.

Pedestrian access to the residential portion of the project site is provided on the ground level through the lobby, where residents of the proposed building access the residential floors through either an elevator adjacent to the leasing office or stairs adjacent to the community lounge. Additionally, residents could access residential floors through an elevator or stairs located in the southeast corner of the project site.

Utilities and Infrastructure

The project site is located in an urban area and is currently served by existing utilities, including: water, sanitary sewer, storm drainage, electricity, and telecommunications infrastructure. The majority of existing utilities within the boundary of the project site, aside from those within the public service easement (PSE) located on the western boundary of the project site adjacent to South Main Street as shown in Figure 8, would be removed. Existing and proposed utility connections are discussed below.

Water

Water service in the City of Milpitas is provided by the Santa Clara Valley Water District (SCVWD). The proposed project includes the removal of all existing utilities, including water mains. As such, new mains and connections would be provided as part of the project and would be sized a minimum diameter of 1 inch. New water lines would connect to the 8-inch mains located within the PSE.

Wastewater

The San José/Santa Clara Water Pollution Control Plant (WPCP) provides wastewater treatment for Milpitas. The City of Milpitas maintains existing sanitary sewer lines within the vicinity of the site, including an 8-inch line within the PSE. The proposed project includes the installation of a new on-site 6-inch wastewater line that would connect to the City's existing line in the PSE.

Stormwater

The existing buildings, paving, concrete, and other impervious surfaces account for approximately 0.77 (36 percent) of the 2.13-acre site. The remaining 1.36 acres (64 percent) on the project site is covered by pervious surfaces consisting of a large landscaped area, located on the southeastern portion of the project site, and smaller scattered areas throughout the site. Current drainage of the site directs runoff through the site to an existing 36-inch storm drain within the PSE. The proposed storm drainage infrastructure will either self-treat with permeable pavers and bio-retention planters or will drain through the project site to a media filter, then to the existing 36-inch storm drain, as shown in Figure 9.

Upon construction of the proposed project, approximately 1.93 acres (90 percent) of the project site would be covered by impervious surfaces and approximately 0.2 acres (10 percent) would be covered by landscaped areas. On-site drainage would be consistent with Santa Clara County National Pollutant Discharge Elimination System (NPDES) C.3 requirements for Low Impact Development.

Electricity and Natural Gas

Electricity and natural gas services to the site are provided by Pacific Gas and Electric Company (PG&E). Existing underground utility connections and gas mains within the PSE provide electricity and gas to the project site. The proposed project would require the construction of new electricity and gas connections to serve the project. New electrical lines (servicing the project only) would be installed underground.

To reduce energy usage, the project would incorporate green building measures in compliance with CALGreen's 2016 standard building measures for residential buildings and Title 24 requirements.

Demolition, Grading, and Construction

Development of the proposed project would result in the demolition of all existing structures and pavements. The proposed project would include trenching for the sanitary sewer tie-ins to a depth of approximately 12 feet within the PSE, and the rest of the site would be excavated to a depth of approximately 3 feet. A total of approximately 2,000 cubic yards would be cut from the project site to create a level pad. Construction of the proposed project is anticipated to occur over approximately 24 months, starting in mid-2019 and ending in mid-2021.

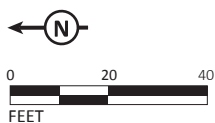
AMENDMENTS AND PERMITS

As previously discussed, the proposed project involves an application for a specific development proposal for the 1380-1400 South Main Street parcels and a requested General Plan Amendment, TASP Amendment, Density Bonus, and Rezoning for both parcels, and an additional MSP Amendment for the 1400 South Main Street parcel. These amendments would change the existing General Plan land use designations for the project site from VHD to Urban Residential (URR), as shown in Figure 10; amend the TASP Figure 3-1 to include the project site (i.e., the 1400 South Main Street site), amend the MSP Figure 1.1 to not include the 1400 South Main Street site, as shown in Figure 11; and amend the TASP Zoning District Map Figure 5-21 to change the existing TASP zoning designation for the project site to Urban Residential with a TOD overlay (R5-TOD), as shown in Figure 12.



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FIGURE 7



1380-1400 South Main Street Project
Conceptual Landscape Plan

SOURCES: HMM; CORE COMPANIES, 2017.

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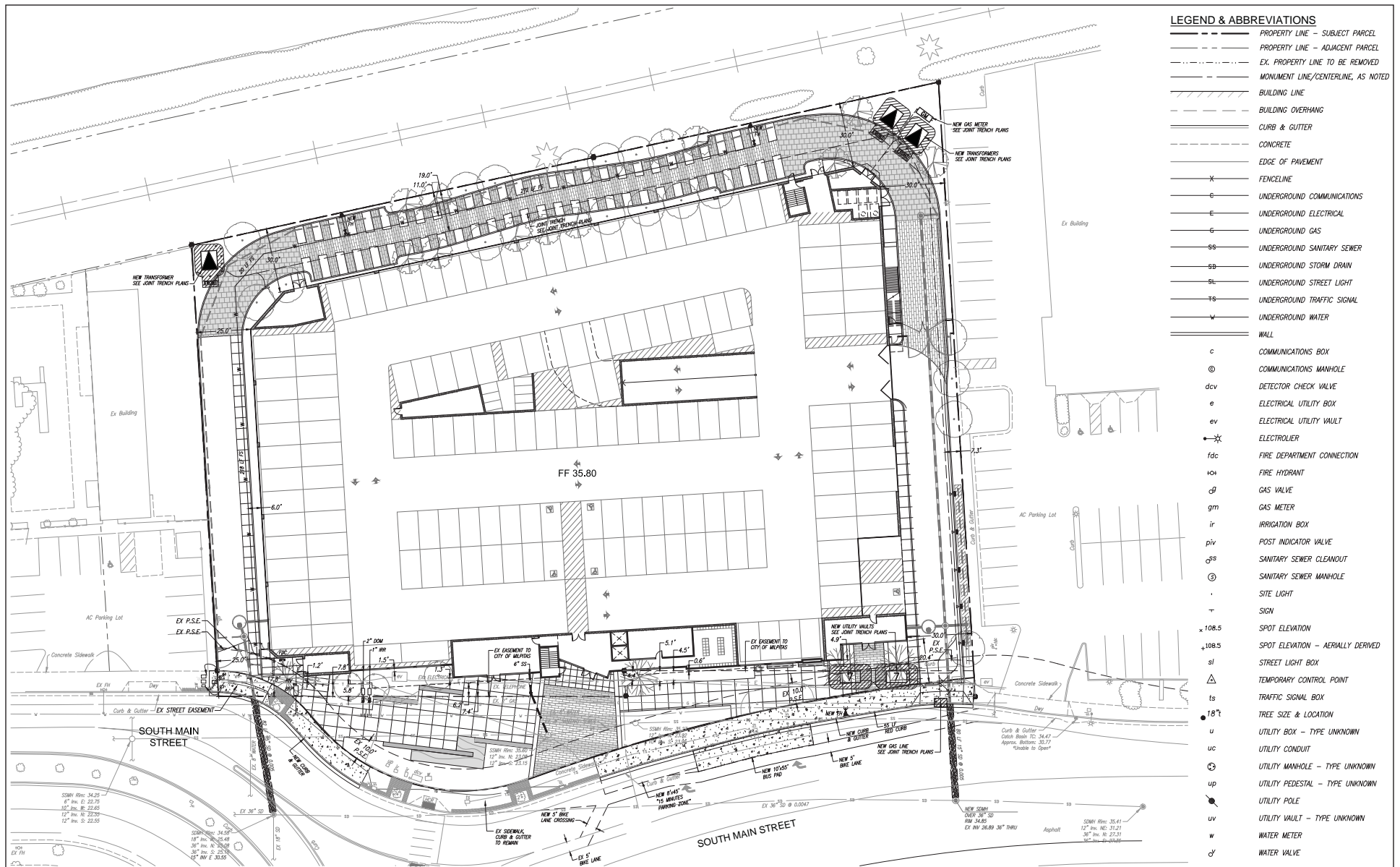
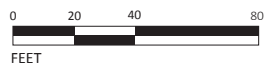


FIGURE 8

LSA



SOURCES: CORE RESIDENTIAL; JMH WEISS, INC., 2017.

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1380-1400 South Main Street Project
Conceptual Utility Plan



LSA



FIGURE 10

1380-1400 South Main Street Project
Existing and Proposed General Plan Land Use

SOURCES: GP EXISTING.PDF AND PROPOSED.PDF

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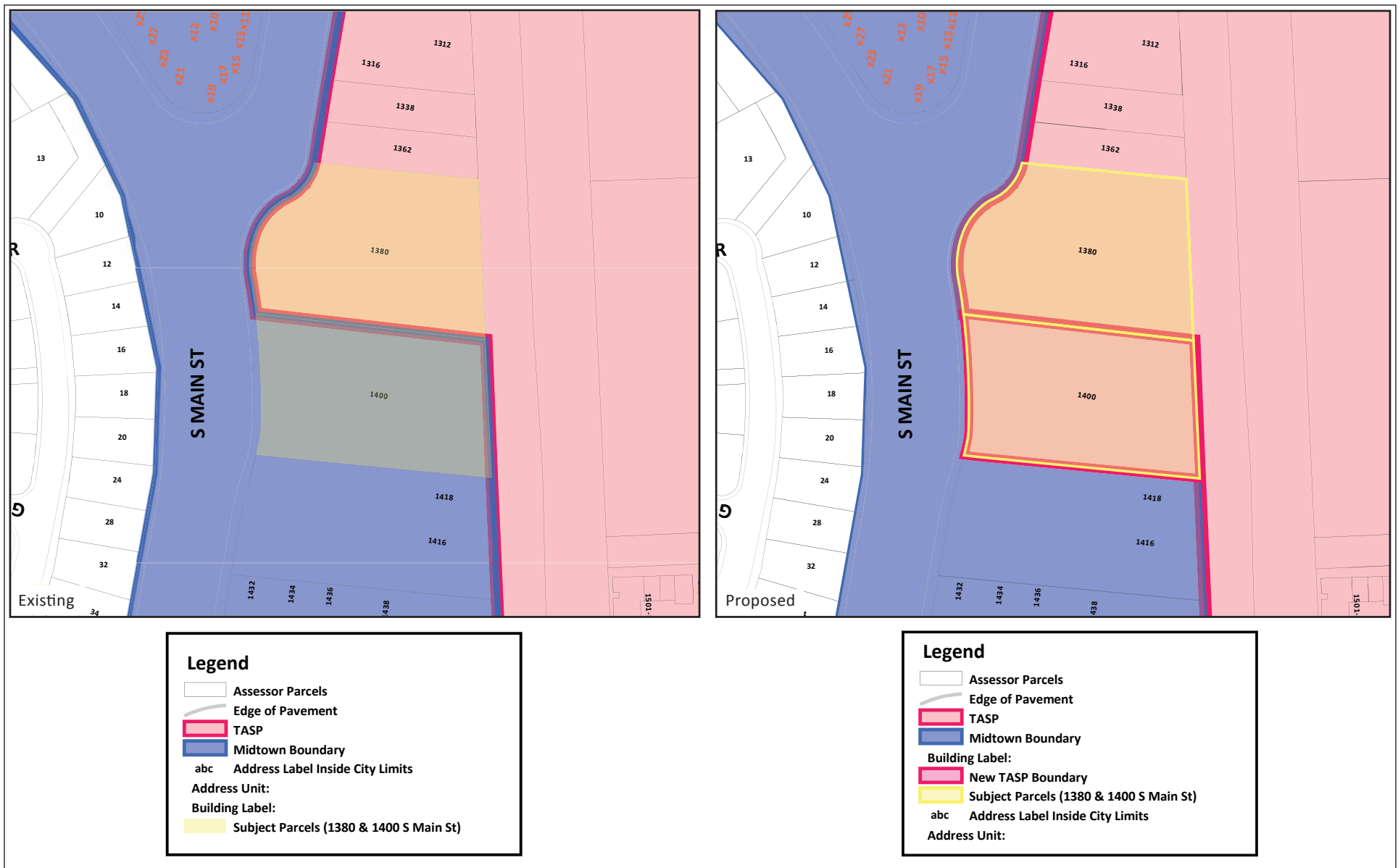
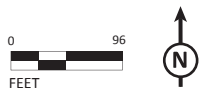


FIGURE 11

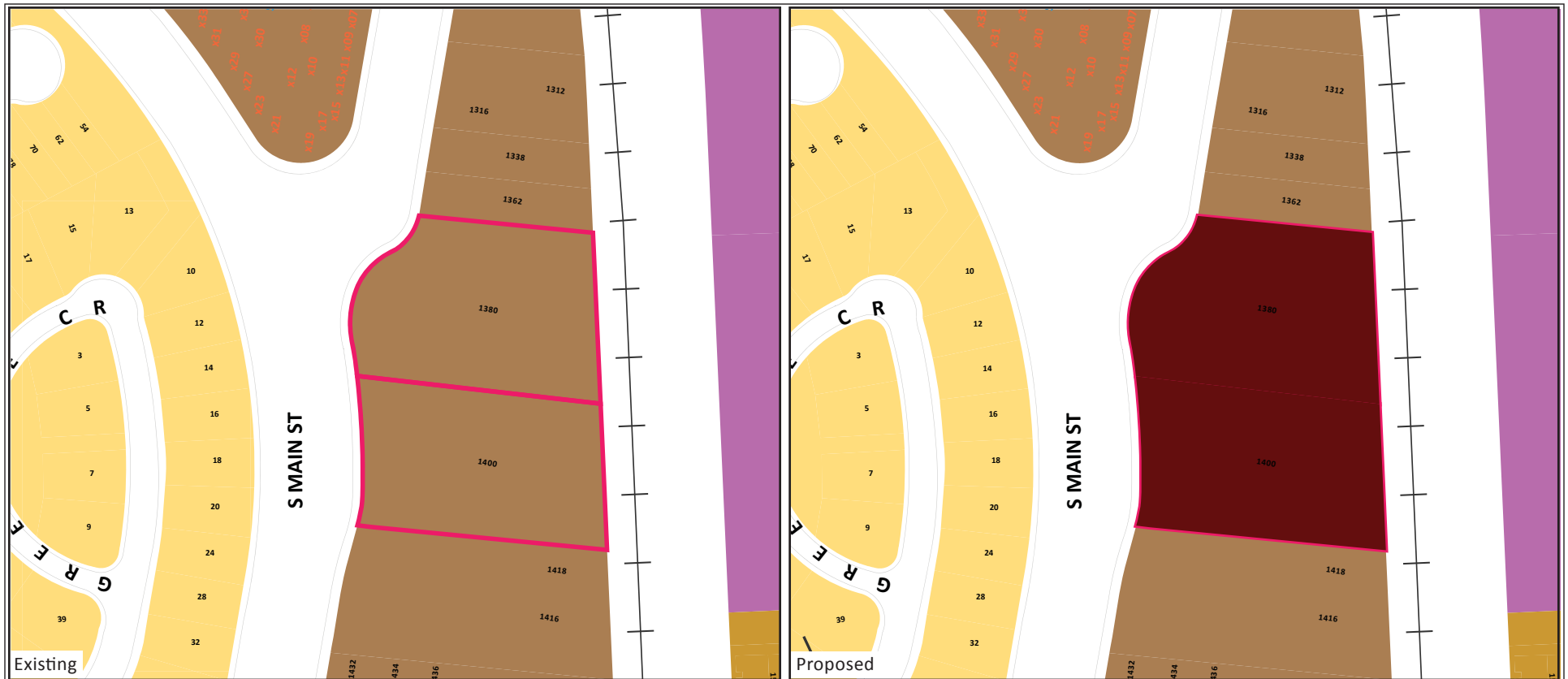
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SOURCES: SPECPLANEXISTING.PDF AND SPECPLANPROPOSED.PDF.

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1380-1400 South Main Street Project
Existing and Proposed Midtown Specific Plan and Transit Area Specific Plan Boundaries



Legend

Zoning By Parcel:

- A
- C1
- C2
- CO
- HS
- I
- M1
- M2

- MP
- MXD
- MXD2
- MXD3
- POS
- R1-10
- R1-2.5
- R1-3
- R1-4

- R1-5
- R1-6
- R1-H
- R2
- R3
- R4 TOD
- R5 TOD
- TC
- Waterway

Edge of Pavement

Address Unit:

Building Label:

- Subject Parcels (1380 & 1400 S Main St)
- Proposed R-5 TOD
- Assessor Parcels
- abc Address Label Inside City Limits
- Railroads

LSA



FIGURE 12

1380-1400 South Main Street Project
Existing and Proposed Zoning Districts

SOURCES: ZONINGEXISTING.PDF AND ZONINGPROPOSED.PDF

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As part of the proposed project evaluated in this Addendum, the following approvals and permits would be required:

- General Plan Amendment
- TASP and MSP Amendments
- Zoning Amendment
- Density Bonus
- Lot Combination
- Site Development Permit
- Conditional Use Permit
- Demolition Permit
- Building Permit
- Tree Removal Permit

As stated above, the proposed project would include 10 VLI residential units. The project applicant is requesting a waiver/modification of the 90 units per acre density development standard under the State Density Bonus Law (Government Code Section 65915(e)) and this will be processed by the City in conjunction with the permits described above.

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ATTACHMENT B ENVIRONMENTAL CHECKLIST PURSUANT TO CEQA GUIDELINES SECTION 15168

CEQA Guidelines 15168(c)(4) recommends using a written checklist or similar device to confirm whether the environmental effects of a subsequent activity were adequately covered in a program EIR. This checklist confirms that the modified 1380-1400 South Main Street Project (project) and proposed amendments to the General Plan, TASP, and zoning (proposed project) described in Attachment A is within the scope of the Transit Area Specific Plan Final EIR (TASP FEIR) and will have no new or more severe significant effects and no new mitigation measures are required.

In accordance with CEQA Section 21093(b) and CEQA Guidelines Section 15152(a), this Addendum tiers off the TASP FEIR, certified in May 2008, which is hereby incorporated by reference.

This checklist describes and evaluates potential changes to environmental impacts from the proposed revised project as they relate to impacts identified in the TASP FEIR. The focus of this analysis is on impacts specific to the revised project and that differ from those identified in the TASP FEIR.

This environmental checklist is used to: (1) compare the environmental impacts of the proposed revised project with impacts expected to result from development approved in the TASP and evaluated in the TASP FEIR; (2) to identify whether the proposed project would result in new or more severe significant environmental impacts; and (3) to identify if substantial changes with respect to the circumstances under which the project would be undertaken since the TASP FEIR was certified would result in new or more severe significant environmental effects.

Mitigation Measures are measures that would minimize, avoid, or eliminate a significant impact. The analysis contained herein evaluated each topic to identify whether additional mitigation measures beyond those identified in the TASP FEIR would be warranted. As discussed for each topic in the checklist, no new mitigation measures would be required for the proposed project.

For all other environmental topics addressed in the checklist as identified in each topical section, there have been no substantial changes in environmental circumstances that would result in new or more severe significant environmental effects than were evaluated and identified in the TASP FEIR.

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1. AESTHETICS

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

Scenic Vistas

The project site is not located within a scenic viewshed or along a State Scenic Highway or other scenic highway. Flat topography and existing urban development constrain scenic vistas in the vicinity of the project site.

Scenic Resources

The only scenic resources located within the TASP Area are street trees located on McCandless Drive, approximately 0.12 miles east of the project site. There are no scenic resources located on the project site. Additionally, the City's Tree and Planting Ordinance (Ord. 201.1) protects significant trees and heritage trees throughout the City. Therefore, the impacts associated with the proposed project would not result in new impacts to scenic resources or substantially increase the severity of impacts over those analyzed in the TASP FEIR.

Visual Character

The TASP aims at improving the existing aesthetic value of the TASP Area and calls for new parks, trails, landscape buffers, and other design policies that would result in the enhancement of the visual character of the TASP Area. The TASP includes specific design standards to create a unified appearance to the TASP Area, consistent setbacks, landscaped buffers, street trees, and parks, which the TASP FEIR analyzed. The proposed project would conform to these design standards by providing street trees, public plazas with a variety landscape types, and landscaped setback areas.

The building height of the proposed project would change the visual character of the existing site. The existing buildings on the project site are two vacant single-story light-industrial buildings. The TASP allows buildings in the R5-TOD district up to 75 feet in height. The proposed project would include the construction of a building seven stories in height that would not exceed 85 feet. As stated in Attachment A, Project Description, the project applicant is requesting approval of a Conditional Use Permit allowing for increased building height up to 85 feet. Therefore, the proposed

project would not degrade the visual character of the project site or result in impacts to visual character that would be more severe than those impacts analyzed in the TASP FEIR.

Light and Glare

Redevelopment of the TASP Area would result in the introduction of new sources of light and glare on the project site. As discussed in the TASP FEIR, development standards and policies would limit new sources of light and glare in the TASP Area. To minimize potential light and glare impacts, the proposed project would implement and be consistent with TASP development standards that address street and outdoor lighting. Therefore, the proposed project would not create impacts related to light and glare that would be new or more significant than those analyzed in the TASP FEIR.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Applicable Policies

TASP Policies

- *Policy 6.41: Construct a continuous trail network as delineated in the Transit Area Plan through land dedication and improvements by property owners in coordination with the Santa Clara Valley Water District and the City of Milpitas.*
- Development Standard: Utilities shall be underground or in subsurface conduits and accessible.

Conclusion

The TASP FEIR adequately evaluated the potential aesthetic impacts of the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

2. AGRICULTURE AND FORESTRY RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and the forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The TASP FEIR did not analyze agriculture as the TASP Area is urban without any agricultural or forest land uses in the area or vicinity. The project site, located within the TASP Area, is also not used for agriculture. The California Important Farmland Finder map designates lands within the TASP Area, including the project site, as Urban and Built-Up Land.¹ Thus, the TASP and the proposed project would have no impacts on agriculture or forestry resources.

¹ California, State of, 2016. Department of Conservation. California Important Farmland Finder (map). Website: maps.conservation.ca.gov/dlrp/ciff (accessed March 27, 2018).

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Conclusion

The TASP FEIR adequately evaluated the agriculture and forestry impacts of the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

3. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

An Air Quality and Greenhouse Gas Assessment² was prepared for the proposed project by Illingworth & Rodkin, Inc. Several of the following responses are based on the findings presented in the report.

² Illingworth & Rodkin, Inc., 2017. *Air Quality and Greenhouse Gas Assessment, S. Main Street Milpitas Residential Project*. December 18.

Clean Air Plan Consistency

An air quality plan describes air pollution control strategies to be implemented by a city, county, or region classified as a non-attainment area. The main purpose of an air quality plan is to bring an area into compliance with the requirements of federal and State air quality standards.

The Bay Area Air Quality Management District (BAAQMD) guidelines were referenced to determine if a project would conflict with or obstruct implementation of an applicable air quality plan, which for the TASP FEIR was the 2005 Bay Area Ozone Strategy.³ In forecasting future stationary and mobile source emissions and preparing the regional air quality plan, the BAAQMD uses growth projections prepared by the Association of Bay Area Governments (ABAG). The BAAQMD based its 2005 Bay Area Ozone Strategy on population projections in the 2003 ABAG Projections.⁴ The TASP FEIR found that population increases in the City are anticipated to exceed population increases accounted for by the 2003 ABAG Projections, thus resulting in a significant and unavoidable impact (Impact 3.6-1) related to consistency with the applicable federal Environmental Protection Agency (EPA) Clean Air Plan (CAP).

The BAAQMD's current CAP is the 2017 CAP, which was adopted on April 19, 2017. The 2017 CAP is a comprehensive plan to improve Bay Area air quality and protect public health. The 2017 CAP defines control strategies to reduce emissions and ambient concentrations of air pollutants; safeguard public health by reducing exposure to air pollutants that pose the greatest health risk, with an emphasis on protecting the communities most heavily affected by air pollution; and reduce greenhouse gas emissions to protect the climate. Consistency with the CAP can be determined if the project does the following: 1) supports the goals of the CAP; 2) includes applicable control measures from the CAP; and 3) would not disrupt or hinder implementation of any control measures from the CAP.

The proposed project would locate future residents within walking distance of public transportation, jobs, restaurants, and services. Implementation of the TASP includes policies that address transportation and land use that are consistent with the CAP. TASP Policy 3.21 would provide continuous pedestrian sidewalks and safe bicycle routes throughout the TASP Area; Policy 3.22 encourages walking and biking routes to schools and major destinations; and Policy 3.33 requires new development within the TASP Area to provide incentives for alternative modes of transit, which support the CAP. The proposed project would result in land use changes and policy revisions under the TASP. The proposed project would develop high-intensity, transit oriented residential development and would result in a building density at the project site that is similar to what was evaluated in the TASP FEIR. In addition, the population and housing units included in the proposed project would fall within the total development anticipated by the TASP FEIR, as mentioned in Section 10, Land Use and Planning.

The TASP FEIR identified measures to reduce air emissions such as encouraging the use of pedestrian walkways and bicycles, and designing streets for slower speeds, but concluded that air quality impacts would be significant and unavoidable. The project would implement the TASP

³ Bay Area Air Quality Management District, 2006. *Bay Area 2005 Ozone Strategy*.

⁴ Association of Bay Area Governments, 2003. *Projections 2003*.

measures and would not increase the previously-identified impacts. Thus conclusions about compliance with the CAP in the TASP FEIR remain applicable to the project.

Regional Air Pollutant Emissions

The TASP FEIR indicates that the development of projects under the TASP could further contribute to non-attainment of air quality standards. The TASP FEIR also identified that buildout of the TASP could place sensitive land uses (land uses that could house sensitive receptors) near local intersections or roadways associated with air pollutant emissions that exceed (worsen) State or federal ambient air quality standards.

The Air Quality and Greenhouse Gas Emissions Assessment estimated the operational air quality emissions for the proposed project using CalEEMod, as shown in Table 1 below. As identified in the report, implementation of the proposed project would result in 1,216 new daily vehicle trips, which was included as an input to the CalEEMod analysis.

Table 1: Operation Period Emissions

Description	ROG	NO _x	PM ₁₀	PM _{2.5}
Project Annual Emissions	1.48 tons	1.54 tons	1.11 tons	0.32 tons
Average Daily Emissions	8 lbs/day	8 lbs/day	6 lbs/day	2 lbs/day
BAAQMD Threshold	10 tons/year 54 lbs/day	10 tons/year 54 lbs/day	15 tons/year 82 lbs/day	10 tons/year 54 lbs/day
Significant?	No	No	No	No

Source: Illingworth & Rodkin, Inc. (2017).

Note: Average daily emissions assume 365 days operation per year.

The results shown in Table 1 indicate that the proposed project would not exceed the significance criteria for annual ROG, NO_x, PM₁₀ or PM_{2.5} emissions; therefore, implementation of the proposed project would not have a significant effect on regional air quality and mitigation would not be required. Therefore, the proposed project would not result in any new or more significant regional or local air quality impacts than described and evaluated in the TASP FEIR.

Construction-Related Impacts

Construction activities would cause temporary adverse effects on local air quality. Construction activities such as earthmoving, construction vehicle traffic and wind blowing over exposed earth would generate exhaust emissions and fugitive particulate matter emissions that affect local and regional air quality. Construction activities are also a source of organic gas emissions. Solvents in adhesives, non-water-based paints, thinners, some insulating materials, and caulking materials would evaporate into the atmosphere and would participate in the photochemical reaction that creates urban ozone. Asphalt used in paving is also a source of organic gases immediately after its application. Construction dust could affect local air quality at various times during construction of the project. The dry, windy climate of the area during the summer months creates a high potential for dust generation when, and if, underlying materials are exposed to the atmosphere. The effects of construction activities would be increased dustfall and locally elevated levels of particulate matter downwind of construction activity.

The TASP FEIR determined that construction of project associated with the TASP would be less than significant with compliance with BAAQMD construction best management practices and TASP policies.

The Air Quality and Greenhouse Gas Assessment estimated the construction-related air quality emissions for the proposed project using CalEEMod, as shown in Table 2 below. As identified in the report, average daily emissions were based on a one-year construction schedule, or 220 days.

Table 2: Construction Period Emissions

Description	ROG	NO _x	PM ₁₀	PM _{2.5}
Project Build Out	1.91 tons	1.80 tons	0.07 tons	0.07 tons
Average Daily Emissions	17 lbs/day	16 lbs/day	1 lb/day	1 lb/day
BAAQMD Threshold	54 lbs/day	54 lbs/day	82 lbs/day	54 lbs/day
Significant?	No	No	No	No

Source: Illingworth & Rodkin, Inc. (2017).

The results in Table 2 show that the proposed project would not exceed the significance criteria for daily ROG, NO_x, PM₁₀ or PM_{2.5} emissions; therefore, implementation of the proposed project would not have a significant effect on regional air quality. However, during grading and construction activities, dust would be generated. The Air Quality and Greenhouse Gas Assessment provided recommendations to further reduce construction emissions, including implementation of the most recent BAAQMD construction best management practices. These recommendations would be included in the conditions of approval for the proposed project:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.

- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

With implementation of these project conditions of approval, construction of the proposed project would result in similar construction-related, short-term air quality impacts as those impacts identified in the TASP FEIR. In addition, implementation of TASP Policy 5.16 would reduce construction-related air quality impacts. Therefore, the proposed project would also not result in any new or more significant construction-related air quality impacts than were evaluated in the TASP FEIR.

Local Community Risk and Hazard Impacts to Sensitive Receptors

The TASP FEIR identified a variety of pollutant or toxic air emissions, such as diesel exhaust and those from dry cleaning facilities, in addition to emissions that could be released from construction projects and operations associated with the proposed project. TASP Policy 5.23 requires project sponsors to inform future and/or existing sensitive receptors of any potential health impacts resulting from nearby sources of dust, odors, or toxic air contaminants, and where mitigation cannot reduce these impacts. As identified in the TASP FEIR, this information could be disseminated through rental agreements, real property disclosure statements, and/or mailed notices to existing residents and property owners; and would include, but would not be limited to: location of dry cleaners, proximity to diesel emission from trucks and passenger vehicles, and light duty industrial operations. The Air Quality and Greenhouse Gas Emissions Assessment included a search of all stationary sources permitted by the BAAQMD within 1,000 feet of the project site using the BAAQMD Stationary Source Screening Analysis Tool. Using this tool, no permitted stationary sources were identified.

TASP Policy 5.25 requires an analysis of the impact on future sensitive receptors located within 500 feet of active rail lines or roadways if traffic exceeds 100,000 vehicles per day. The project site is located approximately 60 feet west of the Union Pacific Railroad (UPRR) line, and is not located within 1,000 feet on any highways or roadways where traffic exceeds 100,000 vehicles per day. The UPRR line was evaluated using EPA emission factors for locomotives, and the results are presented in Table 3.

As shown in Table 3, potential health risks associated with stationary sources and the nearby rail line would be below BAAQMD thresholds. Therefore, implementation of the project would not result in any new air quality impacts related to the exposure of sensitive receptors to risk and hazards.

Table 3: Community Risk Impacts from TAC Sources Affecting On-Site Sensitive Receptors

Source	Maximum Cancer Risk (per million)	Maximum Annual PM _{2.5} Concentration (µg/m ³)	Maximum Hazard Index
Union Pacific Railroad ¹	7.9	<0.1	<0.01
BAAQMD Cumulative Threshold	100 in a million	0.80	10.0
Exceed?	No	No	No

Source: Illingworth & Rodkin, Inc. (2017).

¹ Modeled at about 60 feet or greater east of the project site.

Objectionable Odors

The TASP FEIR did not address potential odor impacts for the proposed project. The project would not include any activities or operations that would generate objectionable odors and, once operational, the project would not be a source of odors. Therefore, the project would not create objectionable odors affecting a substantial number of people, and the proposed project would not increase impacts beyond those evaluated in the TASP FEIR.

Applicable Mitigation

Construction of the project would result in the temporary generation of NO_x and PM₁₀ emissions. Implementation of the project conditions of approval would ensure that construction of the proposed project would result in a less-than-significant impact. No new mitigation measures would be required.

Applicable Policies

General Plan Policies

- *Policy 3.d-G-2: Provide adequate bicycle parking and end-of trip support facilities for bicyclists at centers of public and private activity.*
- *Policy 3.d-I-9: Require developers to make new projects as bicycle and pedestrian “friendly” as feasible, especially through facilitating pedestrian and bicycle movements within sites and between surrounding activity centers.*
- *Policy 3.d-I-10: Encourage developer contributions toward pedestrian and bicycle capital improvement projects and end-of-trip support facilities.*
- *Policy 3.d-I-14: Include evaluation of bicycle facility needs in all planning applications for new developments and major remodeling or improvement projects.*
- *Policy 3.d-I-15: Encourage new and existing developments to provide end-of-trip facilities such as secure bicycle parking, on-site showers and clothing storage lockers, etc.*

- *Policy 2.b-I-2: Consider locating housing in close proximity to industrial developments where they can be served by existing city services and facilities.*

TASP Policies

- *Policy 3.21: Provide continuous pedestrian sidewalks and safe bike travel routes throughout the entire Transit Area and within development projects. New development shall install sidewalks per the street design standards in Chapter 5 [of the Specific Plan]. The City and/or private property owner shall install sidewalks in areas where they currently do not exist, and where new development is not anticipated during the Plan timeframe. City staff will review individual development applications to ensure that adequate pedestrian facilities are provided and are consistent with the Transit Area Plan's pedestrian improvements.*
- *Policy 3.22: Private development shall be encouraged to provide direct walking and biking routes to schools and major destinations, such as parks and shopping, through their property.*
- *Policy 3.27: Every resident of the Transit Area shall be able to safely walk and bike to the BART and VTA light rail stations. As projects are constructed, make sure that all the routes are continuous and designed to be attractive and safe for pedestrians.*
- *Policy 3.33: Require new development within the Transit Area to facilitate the use of alternative modes of transportation through programs such as carpool parking, the VTA's EcoPass Program, shuttles to transit stations and lunchtime destinations, assistance to regional and local ridesharing organizations, alternative work schedules, telecommuting, etc. Establish a Transportation Demand Management (TDM) program for this purpose, as described in Policy 3.16.*
- *Policy 5.23: Require project sponsors to inform future and/or existing sensitive receptors (such as day care facilities, schools, nursing homes) of any potential health impacts resulting from nearby sources of dust, odors, or toxic air contaminants, and where mitigation cannot reduce these impacts.*
- *Policy 5.24: Allow only natural gas fireplaces, pellet stoves or EPA-Certified wood-burning fireplaces or stoves. Conventional open-hearth fireplaces shall not be permitted.*
- *Policy 5.16: During review of specific development proposals made to the City, sponsors of individual development projects under the Specific Plan shall implement the BAAQMD's approach to dust abatement. This calls for "basic" control measures that should be implemented at all construction sites, "enhanced" control measures that should be implemented in addition to the basic control measures at construction sites greater than four acres in area, and "optional" control measures that should be implemented on a case-by-case basis at construction sites that are large in area, located near sensitive receptors or which, for any other reason, may warrant additional emissions reductions (BAAQMD, 1999).*

- *Policy 5.25: For new residential development that is proposed within 500 feet of active rail lines where vehicles emit diesel exhaust, or roadways where total daily traffic volumes from all roadways within 500 feet of such location exceed 100,000 vehicles per day, will, as part of its CEQA review, include an analysis of toxic air contaminants (which includes primarily diesel particulate matter (DPM)). If the results show that the carcinogenic human health risk exceeds the 10 people in a million standard for carcinogenic human health impacts established by the BAAQMD, the City may require upgraded ventilation systems with high efficiency filters, or other equivalent mechanisms, to minimize exposure of future residents.*

Conclusion

The TASP FEIR adequately evaluated the potential air quality impacts of the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

4. BIOLOGICAL RESOURCES

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

Protected Plants and Wildlife

As described in the TASP FEIR, the area covered by the TASP consists of land previously altered by development. The majority of the TASP Area is covered in vacant industrial lots that have been previously developed and abandoned with structures that are partially or entirely dismantled, resulting in lots with compacted soils and ruderal (plants growing among refuse) habitats. With the exception of burrowing owls, the TASP FEIR determined that there is minimal potential for special-status species to occur due to the history of development in the TASP Area.

The only record of special-status species occurring in the area is for burrowing owls. The TASP FEIR notes that development of vacant and ruderal lots could result in a loss of burrowing owls or their nests. According to the TASP FEIR, TASP Policy 5.26 would reduce potential impacts to burrowing owls to a less-than-significant level. This policy would require preconstruction surveys, buffers during breeding season, and relocation by a qualified biologist in consultation with the California Department of Fish and Wildlife (CDFW) during the non-breeding season in conformance with all necessary State and federal permits.

The proposed project would implement existing General Plan Policies 4.b-I-4 and 4.b-I-5 and TASP Policy 5.26 to reduce potential impacts to burrowing owls to a less-than-significant level. With implementation of these policies, the proposed project would not create impacts related to protected plants and wildlife that are new or more significant than those analyzed in the TASP FEIR.

Riparian Habitat

As described in the TASP FEIR, the project site is located in proximity to two drainages: Lower Penitencia Creek and east channel of Penitencia Creek. While these drainages lack high-quality riparian habitat, patches of riparian habitat exist. New development in the TASP Area could result in loss or degradation of this habitat.

The TASP FEIR determined that implementation of General Plan Policy 4.b-I-4 and Policy 4.b-I-5 and TASP Policy 5.30 would ensure that potential impacts of new development on riparian habitat would be less than significant.

In addition, the proposed project must obtain the necessary State and federal permits prior to work within State or federal jurisdictional habitat areas, respectively. The project site does not support other sensitive natural communities. With implementation of the above-mentioned policies, the proposed project would not create impacts related to riparian habitat that are new or more significant than those analyzed in the TASP FEIR.

Federally Protected Wetlands

As the TASP FEIR states, Penitencia Creek and the east channel of Penitencia Creek and their tributaries receive protection under Section 404 of the Clean Water Act. Wetlands associated with these drainage features also potentially receive protection under Section 404.

The TASP has specific design guidelines, including setbacks that would reduce direct impacts on creeks within the TASP Area. TASP Policy 5.29 requires setbacks from creeks to be a minimum 25 feet from top of bank or from a maintenance road, if one exists. The top of the bank of the east channel of Penitencia Creek is located approximately 63 feet east of the eastern boundary of the project site. General Plan Policies 4.b-I-4 and 4.b-I-5 would ensure impacts to federally protected wetlands within the TASP Area are less than significant. The proposed project would conform to the setback requirements and other design standards provided in the TASP. In addition, the proposed project sponsor would coordinate with the Army Corps of Engineers (Corps), CDFW, and the State Water Control Resources Board (RWQCB), if necessary. By following these guidelines and implementing General Plan Policies 4.b-I-4 and 4.b-I-5, the proposed project would not create impacts related to wetlands that are new or more significant than those analyzed in the TASP FEIR.

The TASP includes policies for project sites adjacent to waterways, including Policy 5.31 which sets out construction requirements and Policy 5.32 identifies the location of projects that would be required to obtain permits from the Santa Clara Valley Water District (SCVWD) prior to construction. The proposed project would conform to these policies and therefore would not create impacts related to waterways that are new or more significant than those analyzed in the TASP FEIR.

Wildlife Movement Corridors

As the TASP FEIR states, nesting habitat for non-listed special-status raptor species occurs in and near the TASP Area. Many bird species use the existing ornamental trees for cover, nesting, or stop-over locations during migration, especially with the availability of water from the drainages within the TASP Area. Removal of large, mature trees can cause direct mortality to nesting birds and their young and construction disturbance can cause nest abandonment resulting in indirect loss to avian species. Raptors also could potentially use large and/or mature trees in the TASP Area for nesting. Raptors and other common birds and their nests and eggs are protected under California Department of Fish and Game Code 3503.5. The project would implement TASP Policy 5.27 which would require a qualified biologist to conduct a survey that would be considered by the U.S. Fish and Wildlife Service (USFWS) and CDFW as appropriate, on a case-by-case basis in certain conditions, to determine whether a project would require avoidance procedures. Implementation of General Plan Policies 4.b-I-4 and 4.b-I-5 and TASP Policy 5.27 would reduce potential impacts to nesting raptors and other birds to less-than-significant levels. The proposed project would conform to the above policies and therefore would not create impacts related to migrating wildlife that are new or more significant than those analyzed in the TASP FEIR.

Mature Trees

The TASP FEIR does not contain a comprehensive tree survey. The FEIR recognizes that the impacts of the high intensity, transit-oriented redevelopment of the area would require removal of many trees. The loss of protected trees would be a significant impact (Impact 3.8-3) that would require compensation per the City ordinances. There are currently 18 trees on the project site. A total of approximately 60 new trees would be planted on the site. Therefore, the proposed project would not create impacts related to mature trees that are new or more significant than those analyzed in the TASP FEIR.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Applicable Policies

General Plan Policies

- *Policy 4.b-I-4: Require a biological assessment of any project site where sensitive species are present, or where habitats that support known sensitive species are present.*
- *Policy 4.b-I-5: Utilize sensitive species information acquired through biological assessments, project land use, planning and design.*

TASP Policies

- *Policy 5.26: For any project sites that are either undeveloped or vacant and support vegetation, or project sites which are adjacent to such land, a pre-construction survey shall be conducted by a qualified biologist within 30 days of the onset of construction. This survey shall include two early morning surveys and two evening surveys to ensure that all owl pairs have been located. If preconstruction surveys undertaken during the breeding season (February 1st through July 31st) locate active nest burrows, an appropriate buffer around them (as determined by the project biologist) shall remain excluded from construction activities until the breeding season is over. During the non-breeding season (August 15th through January 31st), resident owls may be relocated to alternative habitat. The relocation of resident owls shall be according to a relocation plan prepared by a qualified biologist in consultation with the California Department of Fish and Game (CDFG). This plan shall provide for the owl's relocation to nearby lands possessing available nesting habitat. Suitable development-free buffers shall be maintained between replacement nest burrows and the nearest building, pathway, parking lot, or landscaping. The relocation of resident owls shall be in conformance with all necessary state and federal permits.*
- *Policy 5.27: To mitigate impacts on non-listed special-status nesting raptors and other nesting birds, a qualified biologist will survey the site for nesting raptors and other nesting birds within 14 days prior to any ground disturbing activity or vegetation removal. Results of the surveys will be forwarded to the U.S. Fish and Wildlife Service (USFWS) and CDFG (as appropriate) and, on a case-by-case basis, avoidance procedures adopted. These can include construction buffer areas (several hundred feet in the case of raptors) or seasonal avoidance. However, if construction activities occur only during the non-breeding season between August 31 and February 1, no surveys will be required.*
- *Policy 5.29: Per Figure 5-23 G and Tables 5-1 and 5-2 [of the Specific Plan], a minimum 25 foot setback from the top of bank of any creek or drainage channel, or from a maintenance road if one exists, shall be provided.*

- *Policy 5.30: Prior to new development in areas that border creeks and with potential riparian habitat, applicants will be required to coordinate with the CDFW, as required by law. Coordination will include evaluation of existing riparian habitat and development of avoidance, minimization and/or compensatory measures sufficient to procure a streambed Alteration Agreement with the CDFW.*
- *Policy 5.32. Consistent with current City practice, all new development located on or adjacent to Penitencia and Berryessa Creek will be required to comply with the standards and guidelines for land uses near streams, as adopted by the City of Milpitas. Any development or construction activity to be conducted on or adjacent to SCVWD property or easements, such as creek crossings, shall be required to obtain applicable permits from the SCVWD prior to such construction activity.*
- *Policy 6.41: Construct a continuous trail network as delineated in the Transit Area Plan through land dedication and improvements by property owners in coordination with the Santa Clara Valley Water District and the City of Milpitas.*

Conclusion

The TASP FEIR adequately evaluated the biological resources impacts of the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

5. CULTURAL RESOURCES

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The information presented in this section is based on data and findings provided in the Cultural Resources Study⁵ prepared for the proposed project and is available in Appendix A.

⁵ LSA Associates, Inc., 2018. *Cultural Resources Study for the 1380-1400 South Main Street Project, Milpitas, Santa Clara County (LSA Project #MLP1801)*. April 3.

Historic Resources

The project site is fully developed with two commercial buildings. The two buildings were constructed in 1966 (1400 South Main Street) and 1980 (1380 South Main Street). Neither of the buildings is listed in the State Office of Historic Preservation's *Directory of Properties for Santa Clara County*, nor are they identified in a local historical register. The existing buildings are not considered a significant historic resource under the State or federal standards for historic resources. The only historic resource in the TASP Area that is listed in the City's Register of Cultural Resources is the Old Ford Motor Assembly Plant now known as the Great Mall, which is located approximately 0.5 miles north of the project site. Therefore, the proposed project would not result in impacts to buildings that are historic resources.

Prehistoric and Historical Archaeological Resources

As noted in the TASP FEIR, the TASP Area is considered sensitive for archaeological resources. One Native American archaeological resource, CA-SCL-593, and a prehistoric archaeological site are located adjacent to the TASP Area. Previous archaeological studies suggest that there could be an archeological complex in and around these sites that might extend into the TASP Area. The TASP FEIR also determined that there is a moderate to high likelihood that unrecorded Native American cultural resources exist on sites within the TASP Area due to early settlements along Penitencia Creek.

A records search at the Northwest Information Center (NWIC), conducted on March 16, 2018, indicated that there are no recorded cultural resources at the project site. One previous cultural resource survey, which was a part of a larger effort to evaluate various transportation improvement alternatives in Alameda and Santa Clara counties, included the project site (Chavez et al. 1988). That survey identified no cultural resources at the project site.

Archaeological cultural resources have been identified in the vicinity of the proposed project. Adjacent to the proposed project, at 1201 South Main Street, an isolated Native American burial and 15 burned clay features were recently identified during archaeological monitoring of the Ilara Apartments construction. CA-SCL-38, a Native American village and cemetery along Lower Penitencia Creek, is approximately 0.5 miles from the project site. A records search of the Sacred Lands File at the North American Heritage Commission was completed for the United State Geologic Service quadrangle containing the project site and indicated that there were no results for the project site.

While subsurface cultural resources are not anticipated to be encountered with demolition and grading of the site, there is a chance that construction activities could affect previously-unidentified archaeological resources on the project site. The TASP FEIR identifies Policy 5.34 to reduce the impacts to previously unidentified archeological resources to a less-than-significant level through construction monitoring, and if remains are found, temporary halting of construction until development of a mitigation plan and its implementation. This measure applies to the project site, the same as it applies to the TASP.

Implementation of Policy 5.34 from the TASP would reduce impacts to previously unidentified archeological resources to a less-than-significant level. Implementing the proposed project would

not lead to new or more severe impacts to archaeological resources that would occur beyond those already identified in the TASP FEIR.

Paleontological Resources

There is the potential to encounter unidentified fossils during construction of new development. Since fossils are considered to be nonrenewable resources, such impacts would be considered significant. Adverse impacts on paleontological resource could occur when earthwork activities such as mass excavation cut into geological formations, or depths below the soil layer, which is generally 6 feet deep. The TASP FEIR determined that project-specific evaluation, monitoring during construction, temporary suspension of grading, fossil recovery in the event fossils are discovered, as identified in TASP Policy 5.35 would reduce the potential impact to such resources to less-than-significant levels. Implementing the proposed project would not lead to new or more severe impacts to paleontological resources that would occur beyond those already identified in the TASP FEIR.

Disturbance of Human Remains

All development within the TASP Area must conform to State laws pertaining to the discovery of human remains. If human remains of Native American origin are discovered during project construction, the developer and/or Planning Department would be required to comply with State laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission.

Sections 21083.2 and 21084.1 of the Public Resources Code state that if any human remains are discovered or recognized in any location on the project site, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until required conditions are met. This requirement would be applicable and would reduce impacts to potential human remains to a less-than-significant level. These potential impacts would not exceed those already identified in the TASP FEIR, and the project would not result in any new or more significant impacts to cultural resources beyond those identified in the TASP FEIR.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Applicable Policies

Pursuant to CEQA Guidelines 15064.5 (f), if potentially significant cultural resources are discovered during ground-disturbing activities associated with project preparation, construction, or completion, work shall halt in that area until a qualified archaeologist can assess the significance of the find, and, if necessary, develop appropriate treatment measures in consultation with Santa Clara County and other appropriate agencies and interested parties. For example, a qualified archaeologist shall follow accepted professional standards in recording any find including submittal of the standard Department of Parks and Recreation (DPR) Primary Record forms (Form DPR 523) and locational information to the California Historical Resources Information Center Office (Northwest Information

Center). The consulting archaeologist shall also evaluate such resources for significance per California Register of Historical Resources eligibility criteria (Public Resources Code Section 5024.1; Title 14 CCR Section 4852). If the archaeologist determines that the find does not meet the CEQA standards of significance, construction shall proceed. However, if the archaeologist determines that further information is needed to evaluate significance, the Planning Department staff shall be notified and a data recovery plan shall be prepared.

All future development in the TASP Area will be in accordance with State laws pertaining to the discovery of human remains. Accordingly, if human remains of Native American origin are discovered during project construction, the developer and/or the Planning Department would be required to comply with State laws relating to the disposition of Native American burials, which fall within the jurisdiction of the Native American Heritage Commission (PRC Sec. 5097). Sections 21083.2 and 21084.1 of the PRC states that if any human remains are discovered or recognized in any location on the project site, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:

- The Santa Clara County Coroner/Sheriff has been informed and has determined that no investigation of the cause of death is required; and
- If the remains are of Native American origin,
 - The descendants of the deceased Native Americans have made a recommendation to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC Section 5097.98; or
 - The Native American Heritage Commission was unable to identify a descendant or the descendant failed to make a recommendation within 24 hours after being notified by the commission.

TASP Policies

- *Policy 5.32: See this policy in Section 4, Biological Resources.*
- *Policy 5.34: Any future ground disturbing activities, including grading, in the Transit Area shall be monitored by a qualified archaeologist to ensure that the accidental discovery of significant archaeological materials and/or human remains is handled according to CEQA Guidelines § 15064.5 regarding discovery of archeological sites and burial sites, and Guidelines §15126.4(b) identifying mitigation measures for impacts on historic and cultural resources. (Reference CEQA § 21083.2, 21084.1.) In the event that buried cultural remains are encountered, construction will be temporarily halted until a mitigation plan can be developed. In the event that human remains are encountered, the developer shall halt work in the immediate area and contact the Santa Clara County coroner and the City of Milpitas. The coroner will then contact the Native American Heritage Commission (NAHC) which will in turn contact the appropriate Most Likely Descendent (MLD). The MLD will then have the opportunity to make a recommendation for the respectful treatment of the Native American remains and related burial goods.*

- *Policy 5.35: All grading plans for development projects involving ground displacement shall include a requirement for monitoring by a qualified paleontologist to review underground materials recovered. In the event fossils are encountered, construction shall be temporarily halted. The City's Planning Department shall be notified immediately, a qualified paleontologist shall evaluate the fossils, and steps needed to photo-document or to recover the fossils shall be taken. If fossils are found during construction activities, grading in the vicinity shall be temporarily suspended while the fossils are evaluated for scientific significance and fossil recovery, if warranted.*

Conclusion

The TASP FEIR adequately evaluated the potential cultural resources impacts of the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

6. GEOLOGY AND SOILS

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii. Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii. Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv. Landslides?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The information presented in this section is based on data and findings provided in the Geotechnical Investigation⁶ prepared for the proposed project and geologic reports and maps by the United States Geological Survey (USGS), California Geological Survey (CGS), and others, as available.

Seismicity and Seismic Hazards

All structures in the Bay Area could be affected by ground shaking in the event of an earthquake along regional active faults. Seismic shaking could cause extensive nonstructural damage to buildings at the project site. As the TASP FEIR states, some structural damage is not avoidable. Building codes and construction standards established by the California Building Code and contained in Title 24 of the California Code of Regulations (CCR) protect against building collapse and major injury during a seismic event. The proposed project would comply with the provisions of California Building Code to help prevent extensive structural damage due to seismic-related ground shaking. Both Preliminary Geotechnical Investigations state that impacts related to fault rupture, ground shaking, liquefaction, and lateral spreading would be less than significant.

The proposed project would comply with the California Building Code, Seismic Hazards Mapping Act, and General Plan policies that address seismic and geological hazards, and would implement the recommendations included in the Preliminary Geotechnical Investigations.

Unstable and Expansive Soils

The Seismic Hazard Zone Map for the Milpitas quadrangle issued by the State of California indicates that the project site is located within the liquefaction hazard zone. Soil liquefaction is a condition where saturated granular soils near the ground surface undergo a substantial loss of strength due to increased pore water pressure resulting from cyclic stress applications induced by earthquakes or other vibrations. There is no known history of liquefaction-induced damage at the site. The static settlement under the foundation of the proposed building could be up to 2 inches, which exceeds the typical tolerance of a convention spread footing foundation system.

Additionally, the near surface soil at the site was classified as lean clay with moderately high shrinkage-swelling potential. These soils can undergo pronounced volume changes with fluctuations in the moisture content. If restrained from expansion, these soils exert significant heaving pressures on the overlying structures/slabs with moisture additions. These soils also develop deep and wide cracks with the loss of moisture, and they are generally difficult to moisture condition because of their low intrinsic permeability.

The proposed project would implement the recommendations included in the Geotechnical Engineering Investigation to reduce the potential impact from liquefaction and unstable and expansive soils to a less-than-significant level. Therefore, the proposed project would not result in new or more significant geologic impacts than those identified in the TASP FEIR.

⁶ BAGG Engineers, 2017. *Geotechnical Engineering Investigation for the Proposed Multifamily Residential Building located at 1380-1400 Main Street, Milpitas, California*. December.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Applicable Policies

General Plan Policies

- *Policy 5.a-1-3: Require projects to comply with the guidelines prescribed in the City's Geotechnical Hazards Evaluation manual.*

TASP Policies

- *Policy 5.37: Require construction projects to comply with the Santa Clara County National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharges.*

Conclusion

The TASP FEIR adequately evaluated the potential impacts related to geology and soils resulting the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

7. GREENHOUSE GAS EMISSIONS

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The TASP FEIR found that the primary sources of greenhouse gas (GHG) emissions related to urban development in the TASP area are anticipated to continue to be from combustion of fossil fuels by motor vehicles and from electric power generation. Short-term impacts are anticipated from construction activity that would occur during the implementation of the TASP. Since the GHG emission rate is related to growth, the TASP promotes policies that reduce energy consumption and fuel usage by encouraging development patterns that would reduce the vehicles miles traveled (VMT) per capita and proposes a variety of actions and policies that can reduce emissions to less-than-significant levels.

The TASP FEIR found that the rate of increase in VMT would be less than the rate of increase in population due to the mixed-use and transit area nature of new development proposed under the TASP. The TASP FEIR found that while the population is expected to increase significantly in the area, a large percentage of that population would use transit options made available to them which in turn would reduce vehicle use. The TASP FEIR also found that the increase in VMT will not prevent the reduction of statewide GHG emissions to 1990 levels.

Individual projects incrementally contribute toward the potential for global climate change on a cumulative basis in concert with all other past, present, and probable future projects. While individual projects are unlikely to measurably affect global climate change, each of these projects incrementally contributes toward the potential for global climate change on a cumulative basis, in concert with all other past, present, and probable future projects.

The TASP FEIR analyzed the potential GHG emissions that would result from buildout of the TASP. The TASP was designed to provide residential uses in proximity to retail and commercial uses and to transit, such as the BART station, to minimize the use of vehicles and generation of VMT. TASP policies also encourage the development of pedestrian friendly streets and bikeways to promote alternative forms of transportation. The proposed project would incorporate the TASP policies by: providing continuous pedestrian sidewalks and safe bike travel routes, consistent with Policy 3.21; providing direct walking routes to schools and major destinations such as retail developments consistent with Policy 3.22; encouraging children to walk to school by providing safe routes consistent with Policy 3.23; and providing bikeways and bike storage and providing parking areas that encourage carpooling and use of low emission vehicles consistent with TASP Policies 3.28, 3.31, 3.33 and 3.34. The TASP FEIR concluded that implementation of these measures would reduce impacts from GHG emissions for the TASP to less-than-significant levels. As the proposed project would remain in compliance with these policies, the project's impact on GHG emissions would also be less than significant.

Regarding electricity consumption, the TASP FEIR found that the increase in total demand for electrical energy as a result of the TASP would be reduced to less-than-significant levels by requiring compliance with State, local, and TASP energy efficiency policies. These policies (outlined below) will ensure that the additional energy that homes and businesses consume would not impede achievement of the Statewide reduction in emissions mandated by the California Climate Solutions Act of 2006 and will ensure that the impact of increased energy consumption in the TASP Area would be less than significant. Additionally, the proposed project would encourage and support energy efficiency and green building techniques that would reduce energy-related GHG emissions, similar to the previously approved TASP FEIR.

GHG emissions estimates for the proposed project were calculated using CalEEMod and were presented in the Air Quality and Greenhouse Gas Emissions Assessment, as shown in Table 4.

Table 4: Annual Project GHG Emissions (CO₂e) in Metric Tons

Source Category	2020 Emissions
Area	12
Energy	314
Mobile	1,134
Waste	51
Water	34
Total Emissions	1,545
Per Capita Emissions¹	2.1 MT CO₂e/year/capita
BAAQMD Threshold	4.6 MT CO₂e/year/capita
Exceed?	No

Source: Illingworth & Rodkin, Inc. (2017).

¹ Based on a projected population of 733 persons using 3.33 persons per household per US Census data.

As shown in Table 3, the proposed project would not exceed BAAQMD thresholds. Therefore, implementation of the proposed project would not result in an increase in GHG emissions beyond those analyzed in the TASP FEIR and impacts would remain less than significant.

The TASP FEIR did not include an evaluation of the project's compliance with the City's 2013 Climate Action Plan which was not in place at the time the EIR was certified. The Climate Action Plan includes GHG reduction goals, policies, and actions for new and existing development projects. The proposed project includes transit oriented development in addition to the TASP policies listed below, which are consistent with the Climate Action Plan's transportation and land use goals. Therefore, the project would be in conformance with the City's Climate Action Plan.

The proposed project adheres to the building guidelines of the TASP, is consistent with the Milpitas CAP, and promotes reductions in GHG emissions through high-density development in close proximity to transit. To reduce energy usage, the project would incorporate green building measures in compliance with CALGreen 2013 standard building measures for residential buildings and Title 24 requirements. Additionally, while the proposed project would include planting approximately 60 trees, following the City's standards, which would help offset GHG emissions. The proposed project would result in no new or more severe impacts related to GHG emissions than analyzed in the TASP FEIR and further analysis is not required.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Applicable Policies

TASP Policies

- *Policy 3.16: Establish and implement a travel demand management (TDM) program in order to encourage alternate modes of travel and thereby reduce automobile trips. Establish a funding*

mechanism to pay for the costs of the program, including the cost of a transportation coordinator to administer the program. The program would include a ride-matching program, coordination with regional ride-sharing organizations, and provision of transit information; and could also include sale of discounted transit passes and provision of shuttle service to major destinations.

- *Policy 3.21: See this policy in Section III, Air Quality.*
- *Policy 3.22: See this policy in Section III, Air Quality.*
- *Policy 3.23: Encourage children to walk or bike to school by expanding existing safe walking and bicycling routes to schools into the Transit Area.*
- *Policy 3.28: Provide continuous bicycle circulation through the project site and to adjacent areas by closing existing gaps in bicycle lanes and bicycle routes, per Figure 3-5 [of the Specific Plan].*
- *Policy 3.31: Require provision of bicycle and pedestrian facilities such as weather protected bicycle parking, direct and safe access for pedestrians and bicyclists to adjacent bicycle routes and transit stations, showers and lockers for employees at the worksite, secure short-term parking for bicycles, etc.*
- *Policy 3.33: See this policy in Section III, Air Quality.*
- *Policy 5.6: Require the use of Energy Star appliances and equipment in new residential and commercial development, and new City facilities.*
- *Policy 5.7: Require at least 50 percent of all new residential development to be pre-wired for optional photovoltaic roof energy systems and/or solar water heating.*
- *Policy 5.8: Incorporate cost-effective energy conservation measures into all buildings being constructed by the City in the Transit Area, including construction, operations and maintenance. These measures can include but are not limited to:*
 - *Energy efficient light fixtures, including solar powered systems, for streetscapes, parks, and public buildings which have limited glare and spillover;*
 - *Automatic lighting systems in public buildings and offices; and*
 - *Life-cycle costing of capital projects so that the environmental, societal, and economic costs are evaluated over the project's long-term operation.*

Conclusion

The TASP FEIR adequately evaluated the potential impacts associated with greenhouse gas resulting from the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

8. HAZARDS AND HAZARDOUS MATERIALS

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

Transport, Use, Storage, and Disposal of Hazardous Materials

The project proposes the demolition of the existing structures on the project site and construction of a new residential apartment building. The proposed land use would not involve transport, use, or disposal of significant quantities of hazardous materials. Generally, small quantities of hazardous materials such as paints and cleaning products would be used for routine maintenance. Therefore, a significant hazard to the public or environment through the routine transport, use, or disposal of hazardous materials would not occur and potential impacts related to operational use of hazardous materials would be less than significant.

During project construction, hazardous materials such as fuel, lubricants, paint, sealants, and adhesives would be transported and used at the project site. Consistent with the findings of the TASP FEIR, due to mandatory compliance with federal, State, and local regulations, potential impacts associated with future hazardous material use, transport, and disposal are considered less than significant and the proposed project would not result in any new or more severe impacts than those analyzed in the TASP FEIR.

Release of Hazardous Materials and Risk of Upset

The public and/or the environment could be affected by the release of hazardous materials from the project site into the environment, by 1) exposing workers and/or the public to potentially contaminated soil, groundwater, and vapors during construction and/or operation of the project; or 2) exposing workers and/or the public to hazardous building materials (e.g., polychlorinated biphenyls [PCBs], lead paint, asbestos) during demolition of the existing structure.

A Phase I Environmental Assessment (ESA)⁷ was prepared for the project site by AEI Consultants. No evidence of Recognized Environmental Conditions or Controlled Recognized Environmental Conditions were identified in connection with the project site. Additionally, a review of the Pipeline and Hazardous Materials Safety Administration's National Pipeline Incident Report did not indicate any significant incidents from hazards materials pipelines in the City of Milpitas, and based on the presence of gravel and the distance of the UPRR tracks to the project site, the use of oils, arsenic, and herbicides associated with weed or pest control is expected to be minimal.

TASP Policy 5.20 addresses potential hazardous materials that could impact human health and required remediation of contaminated site. TASP Policy 5.21 addresses contaminants that may be present in existing buildings such as asbestos, PCBs, and lead. TASP Policy 5.22 requires a Risk Management Plan at sites with known contamination issues. Furthermore, development within the TASP Area would be required to comply with Section 19827.5 of the California Health and Safety Code, which requires that local agencies not issue demolition or alteration permits until an applicant has demonstrated compliance with notification requirements under applicable federal regulations regarding hazardous air pollutants, including asbestos. All projects within the TASP Area are required to be in full compliance with Title 17 and Title 8 of the California Code of Regulations that would abate lead in public and residential buildings and that covers construction work where employees may be exposed to lead, including metallic lead, inorganic lead compounds, and organic lead.

The TASP FEIR determined that compliance with the above policies as well as other applicable local, State and federal safety standards would reduce potential exposure of people and the environment to hazardous materials associated with development on impacted properties or demolition of older structures to a less-than-significant level.

The proposed project would conform to the above policies and therefore would not result in new or more severe impacts related to the release of hazardous materials than identified in the TASP FEIR.

⁷ AEI Consultants, 2017. *Phase I Environmental Site Assessment*. November 15.

Emission of Hazardous Materials within 0.25 miles of a School

The Pearl Zanker Elementary school, a public school in the Milpitas Unified School District (MUSD) is located approximately 0.2 miles southwest of the project site. The future McCandless Elementary School, a public school in the MUSD, will be located approximately 0.21 miles southeast of the project site. Additionally, the Stepping Stone World Day Care is located immediately adjacent to the northern boundary of the project site.

The project would not involve the handling of acutely hazardous materials. As discussed above, the project would not handle significant quantities of hazardous materials during operation. Consistent with the findings of the TASP FEIR, due to mandatory compliance with federal, State, and local regulations, potential impacts associated with routine hazardous material use, transport, and disposal during construction are considered less than significant. Compliance with TASP policies would ensure that potential impacts related to hazardous emissions from demolition of the existing building and construction of the proposed project would be less than significant and would not result in any new or more severe impacts than those analyzed in the TASP FEIR.

Hazardous Materials Site Pursuant to Government Code Section 65962.5

The project site is not included on a list of hazardous materials release sites compiled pursuant to Government Code Section 65962.5.⁸ Therefore, the proposed project would not create a significant hazard to the public or the environment and would not result in impacts more severe than those analyzed in the TASP FEIR.

Aviation Hazards

The project site is located approximately 3 miles northeast of the San Jose International Airport. The project site is not located within the Airport Safety Zones or Airport Influence Area of the San Jose International Airport,⁹ and is not located in the vicinity of a private air strip. Therefore, the project would not result in aviation-related hazards due to proximity to an airport and the proposed project would not result in any new or more severe impacts than those analyzed in the TASP FEIR.

Wildfire Hazards

The project site is located within a highly urbanized area that is not susceptible to wildfires. Therefore, the project would not result in impacts related to wildfires and the proposed project would not result in any new or more severe impacts than those analyzed in the TASP FEIR.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

⁸ Ibid.

⁹ Santa Clara County Airport Land Use Commission, 2016. *Comprehensive Land Use Plan, Santa Clara County, Norma Y. Mineta San Jose International Airport*. May 25.

Applicable Policies

TASP Policies

- *Policy 5.20: Property owners shall work with the City of Milpitas Fire Department, the Santa Clara County Department of Environmental Health (SCCDEH), the California Department of Toxic Substances Control (DTSC), and/or the State Water Resources Control Board (SWRCB), whichever has jurisdiction, to resolve issues related to contamination that could potentially impact future land uses in the project area. The lateral and vertical extent of contamination shall be determined, remediation activities completed, and land use restrictions implemented, as necessary, prior to the issuance of development permits on parcels with known contamination.*

For parcels with known contamination, appropriate human health risk assessments (HHRAs) shall be conducted based on proposed land uses by a qualified environmental professional. The HHRAs shall compare maximum soil, soil gas, and groundwater concentrations to relevant environmental screening levels (ESLs) and evaluate all potential exposure pathways from contaminated groundwater and soil. Based on the findings of the HHRAs, if appropriate, engineering controls and design measures shall be implemented to mitigate the potential risk of post-development vapor intrusion into buildings.

For parcels with no identified contamination, a Phase I study shall be completed to review potential for ground water, soil, or other contamination related to previous land uses. If any potential for contamination is determined to exist that could adversely affect human health for residential uses, a Phase II level analysis shall be conducted per City, State, and Federal requirements. If contamination is found to exist, procedures for contaminated sites as described in the paragraph above shall be followed.

- *Policy 5.21: Project applicants shall submit information to the City regarding the presence of asbestos-containing building materials, PCBs, and lead-based paint in existing buildings proposed for demolition, additions, or alterations. The information shall be verified prior to the issuance of demolition permits by the City of Milpitas Building Inspection Division for any existing structures or buildings in the project area. If it is found that painted surfaces contain lead-based paint and/or the structures contain asbestos-containing building materials, measures to ensure the safe demolition of site structures shall be incorporated into the project Demolition Plan. The Demolition Plan shall address both onsite and offsite chemical and physical hazards. Prior to demolition, hazardous building materials associated with lead-based paint and asbestos containing building materials shall be removed and appropriately disposed of in accordance with all applicable guidelines, laws, and ordinances. The demolition of buildings containing asbestos would require retaining contractors who are licensed to conduct asbestos abatement work and notifying the Bay Area Air Quality Management District (BAAQMD) ten days prior to initiating construction and demolition activities. Regarding lead-based paint, Cal-OSHA regulates all worker exposure during construction activities associated with lead-based paint. The Cal-OSHA-specified method of compliance includes respiratory protection, protective clothing, housekeeping, hygiene facilities, medical surveillance, and training.*

Conclusion

The TASP FEIR adequately evaluated the potential hazards and hazardous materials impacts of the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

9. HYDROLOGY AND WATER QUALITY

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Place within a 100-year flood hazard area structures which would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. Inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

Water Quality Standards

During the construction period of the proposed project, grading and excavation activities would result in exposure of soil to runoff, potentially causing erosion and entrainment of sediment in runoff. Soil stockpile and excavated areas would be exposed to runoff and, if not managed properly, the runoff could cause erosion and increased sedimentation in storm drains or water courses within or adjacent to the project site. The accumulation of sediment could result in blockage of flows, potentially resulting in temporarily increased localized ponding or flooding.

The release of pollutants and chemicals such as fuels, oil, paints and solvents from construction could be transported to nearby surface waterways and groundwater in stormwater runoff, wash water, and dust control water, potentially reducing the quality of receiving waters.

The proposed project would disturb greater than 1 acre of land, and therefore would be required to obtain coverage under the Construction General Permit. On-site construction activities subject to the Construction General Permit include clearing, grading, excavation, and soil stockpiling. The Construction General Permit also requires the development of a Storm Water Pollution Prevention Plan (SWPPP) by a certified Qualified SWPPP Developer. A SWPPP identifies all potential pollutants and their sources, including erosion, sediments, and construction materials and must include a list of Best Management Practices (BMPs) to reduce the discharge of construction-related stormwater pollutants. A SWPPP must include a detailed description of controls to reduce pollutants and outline maintenance and inspection procedures. Typical sediment and erosion BMPs include protecting storm drain inlets, establishing and maintaining construction exits and perimeter controls to avoid tracking sediment off-site onto adjacent roadways. A SWPPP also defines proper building material staging and storage areas, paint and concrete washout areas, describes proper equipment/vehicle fueling and maintenance practices, measures to control equipment/vehicle washing and allowable non-stormwater discharges, and includes a spill prevention and response plan. Policy 5.33 of the TASP also requires construction projects that disturb 1 or more acres to prepare a SWPPP.

Because the project would replace over 10,000 square feet of existing impervious surface area, the project would be required to comply with Provision C.3 requirements of the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit (MRP). The project would result in alteration of over 50 percent of the existing impervious surface of the project site, and therefore all new and replaced impervious surfaces would require treatment under the MRP. Provision C.3 of the MRP requires implementation of low impact development (LID) source control, site design, and stormwater treatment for regulated projects. LID employs principles such as preserving and recreating natural landscape features and minimizing impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource, rather than a waste product. Practices used to adhere to these LID principles include measures such as rain barrels and cisterns, green roofs, permeable pavement, preserving undeveloped open space, and biotreatment through rain gardens, bioretention units, bioswales, and planter/tree boxes. Policy 5.34 of the TASP also requires construction projects that disturb 1 or more acres to prepare a Stormwater Control Plan.

The TASP FEIR identified the following policies that would help reduce construction-related water quality impacts to less than significant: General Plan Policy 4.d-G-1, General Plan Policy 4.d-I-1, and TASP Policy 5.36 and TASP Policy 5.37.

The TASP and General Plan policies and water quality impacts associated with the project would not be different or more severe than those identified and mitigated in the TASP FEIR.

Groundwater Supplies

As discussed in the TASP FEIR, the project site is located in a highly urbanized area and is largely covered with impervious surfaces. The proposed project would include areas of landscaping and new trees, and would result in a net reduction in impervious surfaces. Therefore, the groundwater recharge rate at the site would be expected to be the same or potentially greater than under current conditions. The proposed project would not require the pumping of groundwater (aside from necessary construction period dewatering operations) and therefore would not deplete local groundwater supplies. Therefore, additional depletion of groundwater resources associated with the proposed project is not expected. The proposed project would not result in any impacts that would be more severe than those analyzed in the TASP FEIR.

Drainage Pattern and Surface Run-off

As discussed in the TASP FEIR, development of the TASP Area including the project site would not substantially alter the course of a stream or river that would result in substantial erosion or siltation on or off site. The TASP Area would maintain approximately the same drainage patterns, utilizing street gutters and storm drains that would remain where they are currently located.

The TASP FEIR determined that stormwater runoff would decrease with the buildout of the TASP Area, including the project site. The addition of more landscaped areas and parks would allow more precipitation to infiltrate into the ground compared with the current condition of nearly complete coverage of impervious pavement. The TASP FEIR determined that none of the existing stormwater drainage pipelines would require expansion.

Developers are required to fund a Storm Drainage Plan for each subdistrict within the TASP Area that includes measures to reduce runoff pollutants and control pollutant sources to the maximum extent practical. Full compliance with the Santa Clara County National Pollution Discharge Elimination System (NPDES) permit guidelines for stormwater discharges and General Plan Policy 4.d.-G-1 would ensure that long-term water quality impacts would not be significant.

Flooding and Dam Failure

The TASP Area, including the project site, does not have any flood hazard from a release of waters associated with a failure of the Sandy Wool Lake Dam. I-680 forms a barrier that protects areas west of the freeway, including the TASP Area.

However, the TASP Area, including the project site, is located in a 100-year flood zone. The City's Municipal Code contains provisions designed to reduce future losses associated with flooding events to comply with regulations stipulated by the Federal Emergency Management Agency (FEMA) and

the National Flood Insurance Program (NFIP). Each project within the TASP Area must comply with specific standards cited in the Milpitas Municipal Code Section XI-15. The City also provides development standards for all new construction within the TASP Area. The TASP identifies several policies that would help reduce flooding impacts to less-than-significant levels.

The proposed project would be designed to ensure that potential flooding impacts are avoided by developing in accordance with the Municipal Code Section XI-15, the City's development standards, and TASP Policies 6.1, 6.2, 6.3, 6.4, and 6.6. Therefore, the proposed project would not result in new or more severe flooding impacts beyond those already identified in the TASP FEIR.

Inundation by Seiche, Tsunami, or Mudflow

As stated in the TASP FEIR, the project site and vicinity are sufficiently elevated and distant from San Francisco Bay to avoid any hazard of tsunami or seiche run-up inundation. Future development would not expose people or structures to inundation by seiche, tsunami, or mudflow.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Applicable Policies

General Plan Policies

- *4.d-G-1: Protect and enhance the quality of water resources in the Planning Area.*
- *4.d-I-1: Continue implementing the NPDES requirements of the Regional Water Board – this is implemented through Chapter 16 of the City's Zoning Ordinance.*

TASP Policies

- *Policy 6.1: Minimize damage associated with flooding events and comply with regulations stipulated by FEMA and the National Flood Insurance Program.*
- *Policy 6.2: New development within a FEMA-designated flood hazard zone must follow the City's construction standards for such areas, as currently laid out in Section XI-15 'Floodplain Management Regulations' of the Milpitas Municipal Code.*
- *Policy 6.3: New development must maintain the Transit Area's urban design standards. In particular, first floor commercial space must be within two feet of the elevation of the public sidewalk.*
- *Policy 6.4: Provide storm drain infrastructure to adequately serve new development and meet City standards.*

- *Policy 6.5: Ensure that runoff in storm drains does not lower water quality within or outside of the Transit Area by implementing BMPs in new developments within the Transit Area.*

Conclusion

The TASP FEIR adequately evaluated the potential hydrology and water quality impacts of the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

10. LAND USE AND PLANNING

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

Divide an Established Community

Projects that have the potential to physically divide an established community include projects such as new freeways and highways, major arterials, streets, and railroad lines. The proposed project would develop a new residential use on the project site within the TASP Area that currently contains vacant commercial buildings and surface parking. The proposed project would provide public access by including public sidewalks throughout the project site that connect with the existing sidewalks along South Main Street. Bicycle and vehicle access would be provided via South Main Street as well. Therefore, the proposed project would not inhibit public connectivity, and would not physically divide a community. This impact would be less than significant and would be no more severe than impacts analyzed in the TASP FEIR.

Conformance with Land Use Plans

The purpose of the TASP is to transition former industrial to primarily residential and commercial uses adjacent to nearby transit. Upon certification of the TASP FEIR, the City of Milpitas adopted amendments to the General Plan and Zoning Ordinance to ensure consistency between the planning documents. The TASP FEIR evaluated these new land use designations and associated policies and determined that impacts of the land use classifications and density of development conceived under the TASP would be less than significant.

As described in the Project Description (Attachment A to the Addendum), the proposed project requests changes to the TASP and MSP land use and zoning associated with the adoption of the TASP. The parcel located at 1380 South Main Street is located within the TASP Planning Area, and is within the R4-TOD TASP zoning district. The 1400 South Main Street parcel is located within the MSP Planning Area, and is within the R4-TOD MSP zoning district. The proposed project would include a General Plan Amendment, TASP and MSP Amendments to include both parcels within the TASP, and rezoning of both parcels within the project site to R5-TOD to allow development of the proposed residential uses. The City would make these changes to the General Plan Land Use Map, TASP Land Use Map, TASP Figure 3-1, and MSP Figure 1.1. Figure 3 and Figures 10 through 12 in Attachment A, Project Description, illustrate the land use designations and zoning associated with the proposed project. The proposed project would also include a waiver of the local development standards under the State Density Bonus Law (Government Code Section 65915(e)) for the construction of affordable housing.

The TASP requires that all projects proposed within the TASP Area are subject to a Site and Architectural Review in accordance with Chapter 42 of the City's Zoning Ordinance. Projects must demonstrate compliance with the TASP, including the Development Standards and Design Guidelines. In order to approve a project or variance, the City must find that "The proposed project conforms to the intent and the specific requirements of the TASP, including the Development Standards and Design Guidelines." The applicant has submitted a matrix identifying how the proposed modifications to the project comply with and implement the Development Standards; the Planning Commission may approve those exceptions upon approval of a use permit.

The project applicant has requested a use permit to allow for variances from the Development Standards. In order to approve the use permit, the City must find:

- The deviation from the Transit Area Specific Plan Standard meets the design intent identified within the TASP and does not detract from the overall architectural, landscaping and site planning integrity of the proposed development.
- The deviation from the Transit Area TASP Standard allows for a public benefit not otherwise obtainable through the strict application of the Zoning Standard.

As shown in Table A in Attachment A, Project Description, the development associated with the proposed project is within the amount of growth evaluated and cleared within the TASP FEIR and is compatible with residential uses in the vicinity of the project. Therefore, the proposed amendments to the General Plan, TASP, and Zoning Ordinance, and the density and intensity of the proposed project would not result in any new or more significant land use impacts than those identified in the TASP FEIR.

Land Use Compatibility

At buildout, the TASP assumes the overall urban design and development standards associated with changes to land use and zoning would contribute to fewer incompatible land uses in the TASP Area. Land uses proposed by the TASP are more compatible with the existing and proposed adjacent residential and commercial uses. In addition, the heights and densities of higher density residential

and commercial uses will provide a transition toward lower density housing. Over the planning horizon, residential uses will be built in an existing industrial area. Therefore incompatible uses may be temporarily adjacent to each other until complete buildout. The TASP also includes a number of development standards to minimize potential impacts of incompatible land uses, such as setbacks, and building location and placement policies and standards. The full set of development standards can be found in Chapter 5 of the TASP. With implementation of these self-mitigating policies and standards in the TASP, the TASP FEIR concluded that no mitigation measures would be required to address potential land use impacts.

As noted above, the proposed project would conform to most of TASP policies and development standards provided in Chapter 5 of the TASP, and the project applicant is requesting a use permit or waiver where it does not. The proposed project would include land uses addressed by the TASP and would not result in any land use compatibility impacts that would be more severe than those analyzed in the TASP FEIR. Therefore, the proposed project would not conflict with established or planned land uses.

Habitat Conservation Plan

No Habitat Conservation Plan has been prepared for the TASP, including for the project site. Thus, no impacts on a Habitat Conservation Plan would occur as a result of implementation of the TASP or the proposed project.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Applicable Policies

TASP Policies

- *Policy 3.8: Allow contiguous developments to build at higher or lower residential densities, so long as their average density falls between the designated minimum and maximum.*
- *Policy 3.9: Maintain the Midtown Plan's gross floor area policy, which excludes all areas of a building devoted to parking from FAR calculations.*
- *Policy 3.38: The open space requirements of the Midtown Milpitas Specific Plan (Policy 3.2.4) shall apply to the entire area of the Transit Area Specific Plan.*
- *Policy 5.16: See policy in Section 3, Air Quality.*
- *Policy 5.17: In all rental and sale agreements, provide disclosures to future residents about all surrounding industrial uses, including UPRR train tracks and operations and the permanent rights of such industrial uses to remain. Describe potential impacts including but not limited to: noise, groundborne and airborne vibration, odors, and use of hazardous materials.*

- *Policy 5.18: Day care facilities, schools, nursing home, and other similar sensitive receptors shall be located away from sites which store or use hazardous materials, in accordance with State and City standards. Adequate buffers to protect occupants of these sensitive uses shall be provided, including but not limited to walls, fences, landscaping, large building setbacks and additional exit routes over and above minimum code requirements.*
- *Policy 5.19: Require the installation of temporary buffers-fences, walls or vegetation-when residential uses are developed adjacent to existing industrial uses. The type of buffer must be reviewed and approved by the City Planning Department. The temporary buffers may be removed if and when the adjacent site is redeveloped as a non-industrial use.*

Conclusion

The TASP FEIR adequately evaluated the potential land use impacts of the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

11. MINERAL RESOURCES

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The entire TASP Area, including the project site, is located in a developed urban area that does not have mineral exploration or extraction occurring in the vicinity. In addition, the TASP Area is not designated as containing mineral resource deposits of regional importance. As such the proposed project as well as the TASP would have no impacts on mineral resources.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Conclusion

The TASP FEIR adequately evaluated the impacts to mineral resources. Therefore, potential impacts would be less than significant and additional mitigation is not required.

12. NOISE

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project result in:				
a. Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. For a project located within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

A Noise and Vibration Assessment¹⁰ was prepared for the proposed project by Illingworth and Rodkin, Inc. Several of the following responses are based on the findings presented in the report.

As identified in the Noise and Vibration Assessment, the City of Milpitas allows construction activities to occur between the hours of 7:00 a.m. and 7:00 p.m. on weekdays and weekends. No construction work is permitted on holidays. All construction activities for the proposed project are assumed to be limited to the allowable days and hours established in the Municipal Code. As such, noise generated by project construction activities would be in compliance with the Municipal Code limits resulting in a less-than-significant impact.

The City of Milpitas prohibits disturbing noise that increases the noise exposure level by three dB over the local daytime ambient noise level measured from the property line of the noise source, or more than 65 dB measured from the property line of the noise source, whichever is more restrictive. At night, the City of Milpitas prohibits any disturbing noise that is audible during the hours of 10:00 p.m. to 7:00 a.m. from a distance of 50 feet from the property line of the noise source or from a distance of 100 feet from any nonstationary noise source. It shall also be prima facie violation if any

¹⁰ Illingworth and Rodkin, Inc., 2017. *Main Street Milpitas Residential Apartments 1380-1400 South main Street Noise and Vibration Assessment*. December 18.

disturbing noise is audible during the hours of 7:01 a.m. to 9:59 p.m. from a distance of 100 feet from the property line of the noise source or any nonstationary noise source.

The intent of the Municipal Code is to regulate noise produced by noise-generating land uses on noise-sensitive land uses, not to regulate sounds produced by one noise-sensitive residential property upon another noise-sensitive residential property. As discussed in the Noise and Vibration Assessment, the proposed project is a residential land use and would not be considered as a significant source of noise within the community that could adversely affect other nearby residential land uses. Intermittent audible sounds produced by the proposed residential project (e.g., human voices, vehicles, and HVAC equipment) would be similar to the sounds produced by the adjacent residential property. Such intermittent sounds would be expected in a residential area and would result in a less-than-significant impact.

Construction-Period Impacts

The proposed project would be consistent with the buildout projected for the TASP, and would implement the policies identified in the TASP FEIR to reduce potential noise impacts to less-than-significant levels. Construction of the project would adhere to the noise standards and requirements set forth in the City's Municipal Code and General Plan. The project would implement the measures identified in the TASP for addressing noise, including providing disclosures to future residents per Policy 5.17, and requiring temporary buffers if residents are placed next to existing industrial uses per Policy 5.19.

As described in the TASP FEIR, construction noise impacts would vary depending on proximity to sensitive receptors, the presence of intervening barriers, and the number, types, and duration of construction equipment used. Compliance with the General Plan and TASP policies would ensure that construction noise impacts would be less than significant.

The City's Noise Abatement Ordinance would restrict construction hours to between 7:00 a.m. and 7:00 p.m. The City's General Plan Policy 6-I-13 would minimize construction noise impacts by restricting the hours of operation, technique, and equipment used. Additionally, TASP Policy 5.15 requires that construction noise be mitigated to the extent feasible to reduce exposure of sensitive receptors.

As discussed in the Noise and Vibration Assessment, the closest noise sensitive land uses to the project site would include the residences to the west across South Main Street and east across the rail line. These residences would be located a minimum distance of 150 feet from the project site. At a distance of 150 feet, hourly average noise levels due to construction activities during busy construction periods would range from about 71 to 78 dBA L_{eq} , and from about 70 to 77 dBA L_{eq} at a distance of 180 feet. Construction noise levels would be expected to exceed 60 dBA L_{eq} and exceed the ambient noise environment by at least 5 dBA L_{eq} at future noise-sensitive residential uses in the project vicinity for a period exceeding one year, and the impact would be considered significant. These recommendations would be included in the conditions of approval for the proposed project.

- Construction activities shall be limited to the hours between 7:00 a.m. and 7:00 p.m. on weekdays and weekends. Construction shall not occur on holidays.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Unnecessary idling of internal combustion engines should be strictly prohibited.
- Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. Construct temporary noise barriers to screen stationary noise-generating equipment when located near adjoining sensitive land uses.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Control noise from construction workers’ radios to a point where they are not audible at residences bordering the project site.
- Notify all adjacent business, residences, and other noise-sensitive land uses of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses and nearby residences.
- Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.

Implementation of these project conditions of approval would ensure that the proposed project would not result in any new or more significant construction-period noise impacts than were described in the TASP FEIR.

Groundborne Vibration Impacts

Construction activities are known sources of groundborne vibration. Vibration impacts could occur during construction of the proposed project, which would require the use of heavy excavation equipment, and the possible use of pile-driving equipment. To determine potential construction vibration impacts, an impact evaluation is described below.

When assessing annoyance from groundborne noise, vibration is typically expressed as root mean square (rms) velocity in units of decibels of 1 micro-inch per second. Vibration levels, different from noise levels, are written as vibration velocity decibels (VdB). However, construction vibration impacts on building structures are generally assessed in terms of peak particle velocity (PPV). Therefore, for purposes of this analysis, project-related impacts are expressed in terms of PPV.

Typical groundborne vibration levels measured at a distance of 25 feet from heavy construction equipment in full operation, such as vibratory rollers, range up to approximately 0.210 PPV. Based on the Federal Transit Administration (FTA) data, large bulldozers generate 0.089 PPV at 25 feet and small bulldozers generate 0.003 PPV at 25 feet. Loaded trucks generate 0.076 PPV at 25 feet, an impact pile driver generates 0.644 PPV at 25 feet, and a sonic pile driver generates 0.170 PPV at 25 feet. Except for the impact driver, these vibration levels would not be expected to cause damage to residential buildings of typical northern California construction. At 120 feet, vibration levels from activities having the highest potential for vibration (e.g., vibratory roller near the common property line) would be up to 0.037 in/sec PPV, which would not exceed the 0.3 in/sec PPV threshold. However, as with any type of construction, this would be anticipated and would not be considered significant, given the intermittent and short duration of the phases that have the highest potential of producing vibration (use of jackhammers and other high power tools). By use of administrative controls, such as notifying neighbors of scheduled construction activities and scheduling construction activities with the highest potential to produce perceptible vibration during hours with the least potential to affect nearby businesses, perceptible vibration can be kept to a minimum. Therefore, as the closest sensitive receptors would be approximately 150 feet away, this impact would be less than significant.

Based on rail line usage information in the U.S Department of Transportation Crossing Inventory Form issued on 07/06/17 and the results of the 31-hour vibration survey, significantly less than 30 trains pass the site daily. Since the total number of trains passing the site in less than 30 events per day, the Infrequent Event, 80 VdB limit is used in the evaluation of the project with respect to vibration compatibility for the site for residential use. The vibration compatibility limit is not applicable to outdoor use areas. The results of a groundborne vibration survey indicated that maximum groundborne vibration levels due to rail passbys at the setback of the closest residential uses to the rail line range from 73 to 80 VdB. While the highest 80 VdB level measured meets the Infrequent Event criterion, it does not exceed it. Further, vibration measurements at a secondary position 50 feet further removed from the rail line indicate a significant reduction in groundborne rail vibration levels. Considering these factors groundborne vibration generated by existing railroad train passbys is considered a less-than-significant impact.

Therefore, the proposed project would not result in any new or more significant groundborne vibration impacts than were described in the TASP FEIR. In addition, implementation of TASP policies would reduce potential groundborne vibration impacts on future or existing sensitive receptors to less-than-significant levels.

Operational-Period Impacts

The TASP FEIR requires implementation of TASP Policy 5.10 which requires new development in the TASP area to adhere to the standards and guidelines in the Milpitas General Plan that govern noise levels, which would include implementation of General Plan Policies 6-I-2 through 6-I-16. Policy 6-1-2 requires an acoustical analysis for projects located within a “conditionally acceptable” or “normally unacceptable” exterior noise exposure area and require mitigation measures to reduce noise to acceptable levels.

The proposed project would result in an increase in people living close to transit stations which would expose sensitive receptors to higher noise levels from train and roadway activity. Short-term noise measurements were made simultaneously with the long-term measurements on a 10-minute basis on Tuesday, November 21, 2017, between 12:10 p.m. and 12:50 p.m. at locations in the northwest and southwest portions of the site at the setback of the proposed residential façades from South Main Street in these areas. These measurement locations are as follows:

- Short-term measurement one (ST-1) was conducted at the northwest corner of the site at approximately 70 feet from the centerline of South Main Street north of the intersection with South Abel Street.
- Short-term measurement two (ST-2) was conducted at the southwest corner of the site at approximately 85 feet from the centerline of South Main Street.

The maximum A-weighted noise level (L_{max}), average A-weighted noise level (L_{eq}), and A-weighted noise levels that exceed 1 percent (L_{01}), 10 percent (L_{10}), 50 percent (L_{50}), and 90 percent (L_{90}) of the time during the measurement period were all collected. The day-night equivalent noise level (L_{dn}) at each short-term measurement location was estimated by correlating the short-term measurement data to the data gathered during the corresponding time periods at the long-term site. The measurement results and estimated Ldn levels at these locations are shown in Table 5.

Table 5: Summary of Short-Term Noise Measurement Data, dBA

Noise Measurement Location	L_{max}	$L_{(01)}$	$L_{(10)}$	$L_{(eq)}$	$L_{(50)}$	$L_{(90)}$	L_{dn}
ST-1: 70 feet from the centerline of South Main Street	75	71	65	62	59	53	64
ST-2: 85 feet from the centerline of South Main Street	73	69	64	60	58	52	63

Note: Ldn is approximated by correlation to the corresponding measurement period at the long-term sites.

Source: Illingworth & Rodkin, Inc., 2017.

Exterior Noise Levels

The City of Milpitas Noise Compatibility Standards consider an exterior noise level of 65 dBA L_{dn} or less to be “Normally Acceptable” for multi-family residential uses. As shown in Table 5, based on the results of the noise measurement survey the existing ambient noise levels at the proposed residential façades facing South Main Street will be between 63 to 64 dBA Ldn, residential façades facing the rail line would be exposed to an Ldn of 57 dBA, and residential uses on the northern and southern project façades would be exposed to Ldn levels between 64 and 59 dBA.

The future noise exposure of the site was determined based on a review of the noise contours contained in the Milpitas TASP and an increase of 1 to 2 percent in traffic volume per year on this South Main Street due to the effect of general growth throughout the City and surrounding region. Considering these factors, the future noise environment on the project site is expected to increase by approximately 1 decibel over existing noise levels. Such an increase would result in an Ldn level

of up to 65 dBA at the building façades closest to and facing South Main Street, and an Ldn level of between 60 and 65 dBA at the residential uses on the northern and southern project façades.

Common outdoor use areas associated with the proposed project will include a podium courtyard on Level 3. This courtyard will be mostly shielded from ambient noise sources by the intervening project buildings. The acoustical shielding provided by the project buildings would range from 5 to 10 dBA resulting in exterior noise levels within the podium the courtyard well below 65 dBA Ldn. The exterior noise environment at the outdoor use spaces included in the proposed project would therefore be compatible with the levels required by the City of Milpitas. Therefore, the proposed project would not result in any impacts that would be more severe than those analyzed in the TASP FEIR.

Interior Noise Levels

The City of Milpitas requires that interior noise levels be maintained at 45 dBA Ldn or less for residences. Interior noise levels would vary depending upon the design of the buildings (relative window area to wall area) and the selected construction materials and methods. Standard residential construction provides approximately 15 dBA of exterior-to-interior noise reduction, assuming the windows are partially open for ventilation. Standard construction with the windows closed provides approximately 20 to 25 dBA of noise reduction in interior spaces. Considering that the highest expected future noise exposure at the project facades is expected to be 65 dBA, closed standard thermal insulating windows and weather sealed doors (assumed to have an equivalent sound isolation rating of 26 STC) in standard residential construction are expected to be capable of achieving interior noise levels of 45 dBA Ldn or less within all residential uses at the project. Though the interior noise standards will be met in all residential units on the project site with closed standard thermal insulating windows and weather sealed doors, based on the overall noise exposure on the site, interior noise levels in residences on the western, northern and southern project façades (where exterior noise levels range from 60 to 65 dBA Ldn) may exceed interior noise levels of 45 dBA Ldn within open windows.

As recommended in the Noise and Vibration Assessment, all residences on the western, northern and southern project façades (where exterior noise levels range from 60 to 65 dBA Ldn) would be supplied with a mechanical ventilation system to supply fresh air to the units, satisfactory to the local building official, to allow occupants to keep windows closed to control noise. These systems could include an acoustically rated straight air transfer duct such as the Fresh 80, 90 or 100-dB units by Fresh Ventilation or equal. Therefore, the proposed project would not result in any impacts that would be more severe than those analyzed in the TASP FEIR.

Stationary Noise Source Impacts

The proposed long-term use of the project site is residential near transit oriented development. Potential long-term stationary source impacts at the project site would be primarily associated with transportation activities and operations associated with delivery truck activities. However, the proposed project would not increase stationary source noise impacts above those analyzed in the TASP FEIR.

Aircraft Noise Source Impacts

According to the City's current and projected noise contours for San José International Airport, the project site is not within an area exposed to aircraft noise levels greater than 60 dB CNEL. Therefore, per TASP FEIR analysis, aircraft noise would have no impact on the project site.

Traffic Noise Impacts

A significant noise impact would occur if traffic generated by the project would substantially increase noise levels at sensitive receptors in the project vicinity. A substantial increase would occur if the DNL exposure at residential land uses increases by more than 3 dB or exceeds 65 dB at the residential property line, whichever is more restrictive.

Impact 3.7-1 of the TASP FEIR identified a less-than-significant traffic noise impact upon existing and future residential land uses assuming the buildout of the TASP. The proposed project is a small subset of the TASP; therefore, the proposed project would also result in a less-than-significant impact with regard to traffic noise increases in the community.

The proposed project would generate up to 1216 vehicle trips per day. Traffic generated by the project would enter and exit the site from South Main Street. Project trips would then distribute themselves along the roadway network. The future ADT on S. Main Street was determined from the City of Milpitas Traffic Volumes Map and adjusted upward to assume a one per cent increase per year since the last count. The future ADT used for segment is 17,000 vehicles. Considering the relatively small percentage of total traffic resulting from the project on S. Main Street, the addition of project traffic is expected to increase noise levels by less than 1 dBA Ldn at receivers along roadway segments experiencing future project trips. Increases of less than 1 dBA Ldn are not considered substantial. Therefore, the proposed project would not result in any impacts that would be more severe than those analyzed in the TASP FEIR.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Applicable Policies

General Plan Policies

- *Policy 6-G-1: Maintain land use compatibility with noise levels similar to those set by State guidelines.*
- *Policy 6-G-2: Minimize unnecessary, annoying, or injurious noise.*
- *Policy 6-I-2: Require an acoustical analysis for projects located within a conditionally acceptable or normally unacceptable exterior noise exposure area. Require mitigation measures to reduce noise to acceptable levels.*

- *Policy 6-I-3: Prohibit new construction where the exterior noise exposure is considered clearly unacceptable for the use proposed.*
- *Policy 6-I-4: Where actual or projected rear yard and exterior common open space noise exposure exceeds the normally acceptable levels for new single-family and multifamily residential projects, use mitigation measures to reduce sound levels in those areas to acceptable levels.*
- *Policy 6-I-5: All new residential development (single family and multifamily) and lodging facilities must have interior noise levels of 45 dB DNL or less. Mechanical ventilation will be required where use of windows for ventilation will result in higher than 45 dB DNL interior noise levels.*
- *Policy 6-I-6: Assist in enforcing compliance with noise emissions standards for all types of vehicles, established by the California Vehicle Code and by federal regulations, through coordination with the Milpitas Police Department, Santa Clara County Sheriff's Department, and the California Highway Patrol.*
- *Policy 6-I-9: Enforce the provisions of the City of Milpitas Noise Ordinance and the use of established truck routes.*
- *Policy 6-I-13: Restrict the hours of operation, technique, and equipment used in all public and private construction activities to minimize noise impact. Include noise specifications in requests for bids and equipment information.*

TASP Policies

- *Policy 5.10: New development in the Transit Area shall adhere to the standards and guidelines in the Milpitas General Plan that govern noise levels. The particular policies of note are Policies 6-I-1 through 6-I-16.*
- *Policy 5.11: Construct masonry walls to buffer residential uses from BART and UPRR train tracks. These walls will be constructed by residential developers. They may be located within the landscaped buffer along the tracks*
- *Policy 5.13: Apply the FTA groundborne vibration criteria (presented in Table 5-5) as review criteria for development projects in the vicinity of vibration sources such as BART trains and heavy rail trains.*
- *Policy 5.14: Project applicants shall conduct a vibration impact analysis for any sites adjacent to or within 300 feet of active UPRR and BART alignments to demonstrate that interior vibration levels within all new residential development (single family and multifamily) and lodging facilities would be at acceptable levels. If needed, require mitigation measure to reduce vibration to acceptable levels.*

- *Policy 5.15: Prior to issuance of building permits, applicants shall demonstrate that noise exposure to sensitive receptors from construction activities has been mitigated to the extent feasible pursuant to the City's Noise Abatement Ordinance. Mitigation may include a combination of techniques that reduce noise generated at the source, increase the noise insulation of the receptor or increase the noise attenuation rate as noise travels from the source to the receptor.*
- *Policy 5.17: In all rental and sale agreements, provide disclosures to future residents about all surrounding industrial uses, including UPRR train tracks and operations, and permanent rights of such industrial uses to remain. Describe potential impacts including but not limited to: noise, groundborne and airborne vibration, odors, and use of hazardous materials.*
- *Policy 5.18: Day care facilities, schools, nursing homes, and other similar sensitive receptors shall be located away from sites which store or use hazardous materials, in accordance with State and City standards. Adequate buffers to protect occupants of these sensitive uses shall be provided, including but not limited to walls, fences, landscaping, large building setbacks, and additional exit routes over and above minimum code requirements.*
- *Policy 5.19: Require the installation of temporary buffers—fences, walls, or vegetation—when residential uses are developed adjacent to existing industrial uses. The type of buffer must be reviewed and approved by the City Planning Department. The temporary buffers may be removed if and when an adjacent site is redeveloped as a non-industrial use.*

Conclusion

The TASP FEIR adequately evaluated the potential noise impacts of the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

13. POPULATION AND HOUSING

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The proposed land use changes and policy revisions under the TASP (which includes the project site) were initiated in order to develop high-intensity, transit-oriented residential and commercial redevelopment on under-utilized industrial land around existing light rail stations and the future BART station in Milpitas. Promoting such high intensity development around transit stations is a key transportation goal for the Bay Area and would meet regional objectives.

The TASP FEIR evaluated potential environmental impacts associated with approximately 7,100 residential units and 18,000 new residents within the TASP Area. The TASP FEIR assumes that the population growth is concentrated in this area and that the TASP would increase the City's housing stock by 39 percent and its population by 28 percent based on 2006 estimates from the California Department of Finance.

The proposed project would include the development of the project site with a high-density residential building with up to 220 residential apartment units. The proposed project would directly generate a permanent population increase in the area. The proposed project would not displace a residential population or existing housing, as the existing structures on the project site are vacant. Similarly, the proposed project would not result in an expansion of urban services, nor would it open additional undeveloped land for future growth. The proposed project would facilitate the reuse of underutilized land in an existing urban setting that is well served by transit facilities and services. In addition, the population and housing units included in the proposed project would fall within the total development anticipated by the TASP FEIR, as mentioned in Section 10, Land Use and Planning. Therefore, the proposed project would not result in new or more significant population growth and/or housing impacts than were analyzed and described in the TASP FEIR.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Conclusion

The TASP FEIR adequately evaluated the potential population and housing impacts of the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

14. PUBLIC SERVICES

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i. Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii. Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii. Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv. Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
v. Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

Fire and Police Protection

The project applicant would construct the proposed project in conformance with current building codes, which require features to reduce potential fire hazards. The Milpitas Police Department would also review project design to ensure that it incorporates appropriate safety features to minimize criminal activity.

As discussed in the TASP FEIR, full buildout of the development approved in the TASP Area, including the proposed project, would incrementally increase the need for fire and police protection services, which would create the need for additional staffing or resources, and a new fire station in the TASP Area. The TASP FEIR states that given that the TASP Area anticipated population of 18,000 new residents, there would be a need for at least one and possibly two new fire companies. Future development of new fire or police facilities in the TASP Area would require supplemental project-specific environmental review.

The TASP presents unique operational issues for the Milpitas Fire Department due to its high density residential and mixed-use structures. The increase in population, business, and vehicular traffic resulting from the buildout of the TASP Area will increase the demand in service levels and has the potential to impact response times, as well as presenting challenges to Fire Department vehicle access and firefighting operations. To maintain current levels of service, an increase in staffing and equipment will be necessary. A “standards-of-cover” analysis should be conducted to determine the precise impact on the Fire Department’s staffing, equipment, and any required facility enhancements. In addition, the Milpitas Fire Department would need to write an addendum to the City’s emergency management plan to address the development of the TASP Area.

As the TASP FEIR states, the buildout of the TASP Area, including the project site would require an increase in Police Department staffing to maintain current levels of service. The City currently provides a ratio of 0.9 police officers per 1,000 residents. The City estimates that an additional 0.5 police officers would be needed to maintain service levels.

The proposed project would follow policies that would reduce Fire and Police Department impacts due to TASP development to less-than-significant levels. The proposed project would not result in any new or more significant impacts to fire or police protection service beyond those identified in the TASP FEIR.

Schools

The proposed project would develop up to 220 residential units within the TASP Area, which would directly increase the demand for school facilities. The closest schools to the project site are Northwood Elementary and Morrill Middle School within the Berryessa Union School District and Independence High School within the East Side Union High School District. The TASP FEIR determined that buildout of the TASP, including the project site, would contribute significantly to an exceedance of school district capacity for Milpitas Unified School District and East Side Union High School District, but that Berryessa Union School District has adequate capacity for future students generated as a result of the TASP. As such, the TASP FEIR determined that the impacts of the TASP Area buildout on school facilities would be significant and unavoidable.

Polices in the General Plan, Midtown Plan, and TASP would reduce the impact and include coordination with the school districts to update their comprehensive facilities plans, update school fees for developers, and consider joining use agreements for potential shared facilities. The proposed project would conform to the above policies, including TASP Policy 4.76. Impacts to schools are significant and unavoidable and the proposed project would not affect this conclusion as the number of proposed residential units and resulting students is within the amount evaluated in the TASP FEIR. The proposed project would not result in any new or more significant school impacts beyond those identified in the TASP FEIR.

Parks

Given that the TASP Area is transitioning from industrial to residential and that there are no public parks located nearby, new parks would need to be developed in the TASP Area. Since Milpitas is largely built out, no large new parks are likely to be established. Public parks in the TASP Area come in three forms: Parks/Plazas, Linear Parks, and Landscape Buffers. The City has previously adopted a public park ratio of 2.0 acres per 1,000 residents for the Midtown Specific Plan. The TASP FEIR states that while this ratio already applies to all but 12 percent of the TASP Area, the application of this ratio can be considered to provide an adequate level of parks and open space for its residents. This policy would require approximately 35.8 acres of public park space in the TASP Area.

The TASP FEIR identifies several policies and standards that require parks to be built as designated – thereby ensuring that impacts on parkland and facilities would be less than significant.

The proposed project would conform to the TASP policies. The proposed project would provide a total of 0.96 acres of common open space and landscaped areas. A total of approximately 0.7 acres would consist of private common area open space for use by project residents. Private open space would include an approximately 0.4-acre flex-space along the eastern border of the project site that would include a landscaped walkway with permeable pavers that would double as the emergency vehicle access. Approximately 0.3 acres would consist of an interior courtyard that would be located on the third floor, surrounded by apartment units. This courtyard would include a spa, an outdoor kitchen, and an outdoor lounge. The remaining approximately 0.26 acres of open space would be dedicated for public use along the South Main Street frontage, the western border of the project site. This public open space would include a pedestrian plaza with access to the micro-retail, an enhanced bus stop, a ride share pickup and drop-off space, and a public bike share station. Therefore, the proposed project would not result in any new or more significant impacts to park facilities beyond those identified in the TASP FEIR.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Applicable Policies

General Plan Policies

- *Policy 2.c-I-1: Continue working with Milpitas Unified School District (MUSD), Berryessa Union High School District, and East Side Union School District in its update of the comprehensive facilities plan and to ensure adequate provision of school facilities.*
- *Policy 2.c-I-3: Work with MUSD, Berryessa Union High School District, and East Side Union School District to monitor statutory changes and modify school fees when necessary to comply with statutory changes. Following this policy will permit the MUSD to update school fees for developers to cover the cost of constructing a new school and expanding Milpitas High School.*
- *Policy 5.c-I-1 Maintain a response time of four minutes or less for all urban service areas.*

TASP Policies

- *Policy 3.38: See policy in Section 10, Land Use and Planning.*
- *Policy 3.41: Park land dedication and in-lieu fees required of new development.*
- *Policy 3.43: New development must pay for the construction of public parks and streets surrounding the parks (or half streets if bordering an adjacent development site).*
- *Policy 3.48: The park along Penitencia Creek East Channel shall provide a pedestrian path along the creek; BBQ's; a tot lot; open space areas for Frisbee and similar informal recreation, and other passive recreation facilities.*

- *Policy 3.54: Include a network of trails along Penitencia Creek and railroad right of ways. These bike/pedestrian trails will connect into the citywide trail network, pedestrian overcrossings of expressways, and the Transit Area's continuous network of bike lanes. They will be located on both sides of Lower Penitencia Creek and on the east side of the Union Pacific railroad tracks that run between Main Street and McCandless Drive.*
- *Policy 3.55: Complete a Trail Loop connecting the whole Transit area.*
- *Policy 3.56: Connections shall be created along Montague Expressway with overhead bridges or undercrossings to create a continuous trail network; allow pedestrians and bicyclists to cross safely; and connect neighborhoods, schools, and parks.*
- *Policy 3.57: All properties along the trail network will need to set aside land for trails. This land will count towards the required public park land dedication requirement. If trail easements already exist or are acquired within the rail line or flood control right of ways, these easements may be used in lieu of land or development sites.*
- *Policy 5.3: All streets (private and public) shall be consistent with the street sections in Chapter 5 of the TASP and shall meet any additional Milpitas Fire Department fire apparatus design requirement for access and firefighting operations.*
- *Policy 6.43: Coordinate with the affected school districts on facilities needed to accommodate new students and define actions the City can take to assist or support them in their efforts.*
- *Policy 6.46: The City and the school districts located in the Specific Plan area should consider entering into a joint use agreement, allowing public use of a new school's playfields when not in use by students, and public use of rooms in the school building for community meetings and events. Any new school site should include outdoor active recreation facilities, which would be counted toward the TASP's public parks requirement. The school building should include facilities that can be accessed and used for community events.*
- *Policy 6.50: The Fire Department shall conduct a 'standards of cover' analysis to determine the Transit Plan's precise impact on the department's staffing and equipment, and any required facility needs. Identify and evaluate potential sites for an expanded or new fire station near the Transit Area if the standards of cover analysis determines it is warranted.*
- *Policy 6.51: Additional fire department staff will be hired, equipment purchased and facilities built to provide an adequate level of service – as determined by City Council – for the residents, workers, and visitors of the Transit Area. New equipment and facilities shall be funded by the Community Facilities District fee and new staff paid from the City's General Fund.*
- *Policy 6.52: If a new fire station is built to meet the service needs of the Transit Area, it must be sited and developed in such a way to not create substantial adverse physical impacts or significant environmental impacts.*

- *Policy 6.53: The Fire Department shall update the City's emergency and disaster response plans to take the location and type of new development and future traffic levels, into account.*

Policy 6.54: Additional police staff will be hired and equipment purchased to provide an adequate level of service – as determined by City Council – for residents, workers and visitors of the of the Transit Area. New equipment shall be funded by the Community Facilities District fee and new staff paid from the City's General Fund.

Conclusion

The TASP FEIR adequately evaluated the potential public services impacts of the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

15. RECREATION

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
a. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

As discussed in Section 14, Public Services, the proposed project would provide a total of 0.96 acres of common open space and landscaped areas. A total of approximately 0.7 acres would consist of private common area open space for use by project residents. Therefore, because open space and recreation areas are being provided by the project, it would not result in any new or more significant impacts related to increasing the use of park facilities by project residents such that substantial deterioration would occur and the required expansion of recreation facilities would not be required by the project beyond what has been identified in the TASP FEIR.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Applicable Policies

TASP Policies

- *Policy 3.38: See policy in Section X, Land Use and Planning.*
- *Policy 3.40: Locate and size parks as shown on Figure 3-6, Parks, Public Spaces, and Trails [of the Specific Plan]. Minor adjustments to the location of parks may be necessary to facilitate a better site plan, respond to site specific constraints, or to accommodate phasing of a project. Smaller parks may be combined to form a larger neighborhood park within the same subdistrict as long as there is no reduction in park area. Complete elimination or relocation of a park outside of a subdistrict requires an amendment to the Specific Plan. If a school is located on a site designated as a park, it may be counted as a park if a joint use agreement is established to allow public use of open space and buildings for recreation purposes after school hours and on weekends. If no such joint use agreement is established, an alternative park site shall be designated.*
- *Policy 3.41 and 3.43: See policies in Section 14, Public Services.*
- *Policy 3.45: Private development within the Transit Area must meet the private open space requirements on a project-by-project basis.*
- *Policies 3.48, 3.54, 3.55, 3.56, 3.57: See policies in Section 14, Public Services.*

Conclusion

The TASP FEIR adequately evaluated the potential recreation impacts of the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

16. TRANSPORTATION/TRAFFIC

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location which results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Conflict with adopted policies, plans or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

This section compares traffic impacts from the proposed project with impacts identified in the TASP FEIR. A Traffic Operations Report (Traffic Study) was conducted for the proposed project.¹¹ Unless otherwise noted, the analysis in this section is based on the findings of the Traffic Study.

Trip Generation

The magnitude of traffic produced by a new development and the locations where that traffic would appear were estimated using a three-step process: (1) trip generation, (2) trip distribution, and (3) trip assignment. In determining project trip generation, the magnitude of traffic entering and exiting the site was estimated for the AM and PM peak hours. As part of the project trip distribution step, an estimate was made of the directions to and from which the project trips would travel. In the project trip assignment step, the project trips were assigned to specific streets and intersections in the study area.

¹¹ Hexagon Transportation Consultants, 2017. *Traffic Operations Report for 1380-1400 South Main Street Apartments*. December 14.

Through empirical research, data has been collected that correlate to common land uses and their propensity for producing traffic. Thus, for the most common land uses there are standard trip generation rates that can be applied to help predict the future traffic increases that would result from a new development. The trip generation estimates for the proposed project are based on rates obtained from the Institute of Transportation Engineers' (ITE) publication *Trip Generation*, 10th Edition.¹²

As stated previously the existing site is currently occupied by vacant buildings and a vacant lot, so the site does not currently generate any traffic. Based on trip generation rates applicable to the proposed mid-rise multi-family housing, and using the shopping center rates for the proposed retail, it is estimated that the project would generate 1,216 trips per day, with 80 trips occurring during the AM peak hour and 99 trips occurring during the PM peak hour. The project trip generation estimates are presented in Table 6.

Table 6: Project Trip Generation Estimates

Land Use	ITE Land Use Code ¹	Size ²	Daily Rate	Daily Trips	AM Peak Hour				PM Peak Hour			
					Peak-Hour Rate	Total Trips	In	Out	Peak-Hour Rate	Total Trips	In	Out
Suburban Multifamily Housing (Mid-Rise)	221	220 du	5.44	1,197	0.36	79	21	58	0.44	97	59	38
Suburban Shopping Center	820	0.5 KSF	37.75	19	0.94	1	1	0	3.81	2	1	1
Total Project Trips				1,216		80	22	58		99	60	39

Source: Hexagon Transportation Consultants, Inc., *Traffic Operations Report for 1380-1400 South Main Street Apartments* (2017).

¹ All rates per Institute of Transportation Engineers, *Trip Generation*, 10th Edition

² DU = dwelling unit; KSF = thousand square feet

The trip distribution pattern for the proposed uses was estimated based on the City of Milpitas TASP, of which the proposed development would be a part. Trips were assigned to the roadway network in accordance with the TASP trip distribution for residential uses. Existing plus Project traffic conditions are represented by existing traffic volumes plus project trips on the existing roadway network. Cumulative traffic volumes were estimated based on forecasts from the City of Milpitas Travel Demand Forecast Model using 2035 General Plan land uses. Traffic volumes for Cumulative plus Project conditions are represented by the 2035 General Plan Buildout volumes plus the traffic generated by the project.

Intersection Level of Service Impacts

The Traffic Study calculated intersection levels of service with net new traffic generated by the proposed project. The results of the intersection level of service calculations for Existing Conditions, Existing plus Project, Cumulative No Project, and Cumulative with Project are presented in Table 7.

¹² Institute of Transportation Engineers, 2017. *Trip Generation Manual*, 10th Edition.

Table 7: Intersection Level of Service Summary

Intersection	Peak Hour	Existing		Existing + Project				Cumulative					
		Avg.		Avg.		Incr. in Critical:		No Project		With Project			
		Delay ¹	LOS	Delay ¹	LOS	Delay	V/C	Delay ¹	LOS	Delay ¹	LOS	Delay	V/C
S. Abel St. & Great Mall Pkwy	AM	33.1	C	33.5	C	0.5	0.007	43.5	D	44.1	D	0.9	0.007
	PM	31.6	C	31.7	C	0.0	0.004	48.2	D	48.8	D	0.8	0.004
S. Main St. & Great Mall Pkwy	AM	22.8	C	22.9	C	0.2	0.002	27.4	C	27.5	C	0.1	0.002
	PM	30.8	C	31.2	C	0.7	0.008	36.4	D	36.7	D	0.7	0.008
S. Main St. & S. Abel St.	AM	12.5	B	12.4	B	0.2	0.007	13.6	B	13.5	B	0.1	0.008
	PM	11.4	B	11.6	B	0.1	0.010	12.9	B	13.1	B	0.1	0.009
S. Main St. & Cedar Way	AM	15.7	B	15.3	B	-0.6	0.007	16.2	B	16.0	B	-0.2	0.008
	PM	9.9	A	9.9	A	-0.1	0.005	11.8	B	11.8	B	0.1	0.005

Source: Hexagon Transportation Consultants, Inc., *Traffic Operations Report for 1380-1400 South Main Street Apartments* (2017).

Note: Long signal cycles allow the intersection to accommodate more vehicles during a single cycle, such that the addition of project traffic can sometimes cause a decrease in the weighted average delay for all vehicles at the intersection.

¹ Signalized intersection level of service is based on the Highway Capacity Manual (HCM) 2000 methodology, using average control delay for the entire intersection.

The results show that all four study intersections currently operate at an acceptable LOS C or better under existing peak-hour conditions and that all study intersections would continue to operate at an acceptable LOS C or better under existing conditions with the project. Under Cumulative conditions, all four study intersections would operate at an acceptable LOS D or better during both peak hours, both with and without the project. According to the City of Milpitas level of service standards, the project would therefore have no impact on intersection level of service. Therefore, the proposed project would not result in any new or more significant impacts beyond those identified in the TASP FEIR.

Vehicle Queuing

The proposed project would add 13 southbound left turns from South Main Street in the AM peak hour and 35 southbound left turns in the PM peak hour. The site driveway would provide a single outbound (westbound) lane to be shared by both left turns and right turns. Accordingly, outbound right-turning vehicles would sometimes have to wait behind left-turning vehicles to exit the site. The project would add 24 westbound left turns and 34 westbound right turns (58 total vehicles on the approach) from the site access driveway in the AM peak hour and would add 16 westbound left turns and 23 westbound right turns (39 total vehicles on the approach) in the PM peak hour. This equates to approximately one outbound vehicle per minute in the AM peak hour and one outbound vehicle every one-and-a-half minutes in the PM peak hour.

Under both Existing plus Project and Cumulative plus Project conditions, the 95th-percentile maximum vehicle queues for both the southbound left-turn pocket on South Main Street and the westbound shared left-right-turn lane on the site access driveway would be 25 feet in both the AM and PM peak hours. These queues would be easily accommodated within the 125 feet of storage

available for the southbound left-turn movement from South Main Street and the 35 feet of storage available for the westbound shared movements on the site access driveway. Therefore, the proposed project would not result in any new or more significant impacts beyond those identified in the TASP FEIR.

Site Circulation and Access

The project site would be accessed by two driveways. The main driveway is located on South Main Street about 240 feet south of the intersection of South Abel Street and South Main Street. The other driveway is located on South Main Street just east of the intersection at South Abel Street, which would be gated and serve emergency vehicles only.

At the location of the site driveway, South Main Street is four lanes wide with a two-way center left-turn lane and bike lanes and on-street parking on both sides. Under this roadway configuration, left turns into the site would be made from the two-way center left-turn lane. As described previously, the two-way center left-turn lane extends from the site driveway back approximately 190 feet to the median island at the intersection of South Abel Street and South Main Street. The effective length of the southbound left-turn pocket would be about 125 feet, after accounting for a de facto taper section. South of the site driveway, the two-way center left-turn lane could accommodate westbound left turns out of the site, serving as a refuge and acceleration lane.

The vehicle queuing analysis for the site driveway, as described previously, showed that the 95th-percentile maximum queues would be easily accommodated within the 125 feet of storage available for the southbound left-turn movement from South Main Street and the 35 feet of storage available for the westbound shared movements on the site access aisle.

Sight distance looking left for vehicles exiting the project site driveway is affected by the curvature in the road and the cars parked on the street south of the driveway. The curvature in the road is due to the fact that, directly at the site driveway, northbound South Main Street starts to flare as it widens from two lanes to three in order to provide a dedicated right-turn lane at the downstream intersection of South Abel Street and South Main Street. A consequence of the street flaring at the site driveway is that the site driveway is set back from the upstream street alignment, thereby affecting the line of sight for drivers looking left. These conditions are such that the sight distance is currently inadequate at the location of the proposed site driveway. According to Caltrans design standards, for a street with a 35 mile-per-hour speed limit, the minimum required sight distance is 250 feet at private driveways. With the current street alignment and on-street parking, the available sight distance is about 170 feet.

In order to ensure adequate sight distance at the site driveway, the proposed project would include, via conditions of approval, one of the following recommendations:

- Reduce the on-street parking south of the driveway; or
- Implement geometric improvements that would extend the site driveway.

Ensuring that adequate sight distance is provided would also require maintenance of landscaping upstream of the driveway so that it doesn't create an obstruction to the driver's line of sight. In addition, any monument signs would be placed as to not obstruct the line of sight.

Circulation on-site would consist of a drive aisle along the perimeter of the building, and circulation inside the garage. The site access aisle extends from the site driveway eastward, then northward along the east side of the site and loops back to the emergency-vehicle-only driveway on the north side of the site.

The site plan shows the site access aisle to be 20 feet wide, accommodating one inbound and one outbound lane, bordering the south side of the building. On the north side of the site access aisle, approximately 35 feet east of the sidewalk on South Main Street, there are planned two parking spaces, one of which would be handicap-accessible. These parking spaces are situated within the space of the parking structure but accessible only from the site access aisle. These two parking spaces are separated from the garage by a fence. Farther east, located about 130 feet from the sidewalk, is a gated entrance to the garage. Just east of the gated entrance, on the site access aisle, located about 160 feet east of the sidewalk, is another gate accessing the perimeter drive aisle described above. The section of the perimeter aisle, from the gate back to the gated north driveway, is for use by emergency vehicles only.

The parking spaces located off the site access aisle are 35 feet east of the sidewalk on South Main Street, and 65 feet west of the garage entrance. Vehicles parked in these spaces would have to back out directly into the site access aisle, potentially into the line of traffic on the aisle. Considering the very low volume and speeds on the drive aisle, this situation is similar to backing into any aisle in a parking lot. However, drivers on the site access aisle would not have the perception of driving in a parking lot, so their speeds and level of attentiveness could differ accordingly. It is therefore advisable to ensure sufficient sight distances and reduced speeds.

At the ground level, along the north side of the site access aisle, the garage is separated from the aisle by a fenced opening rather than a solid wall. Drivers traveling westbound along the aisle, and drivers backing out of the subject spaces, would have some capacity to see each other. In contrast, drivers traveling eastbound along the aisle, and drivers backing out of the subject spaces, would have very limited capacity to see each other.

In order to improve the sight distance between parked vehicles on the main drive aisle and drivers on the main drive aisle, the following would be incorporated into the project via the conditions of approval:

- The main drive aisle parking spaces would be relocated approximately 30 feet to the east. In addition, speed humps would be considered on the main drive aisle to insure that vehicles are traveling slowly onsite, and thus giving drivers more time to react to each other.

Therefore, the proposed project would not result in any new or more significant impacts beyond those identified in the TASP FEIR.

Pedestrian, Bicycle, and Transit Facilities

All streets in the project vicinity have sidewalks and the intersections have crosswalks. Pedestrian activity within the study area is relatively light except at the intersection of South Main Street and Great Mall Parkway, where a moderate volume of pedestrian traffic is generated by the VTA Great Mall/Main Light Rail Station, which is co-located with the VTA Great Mall Transit Center on the northeast corner of the intersection. Although the station/transit center generates a high volume of pedestrian activity, most of it is confined within the station/transit center and does not affect the intersection. Additionally, the Light Rail station being grade separated minimizes pedestrian traffic at the intersection.

According to the U.S. Census, pedestrian trips comprise approximately 1 percent of the total commute mode share in the City of Milpitas. For the proposed project, assuming 1 percent of total commute trips would be walking trips, which would equate to approximately one pedestrian trip during the AM peak hour and one pedestrian trip during the PM peak hour. The proposed project would generate pedestrian trips to/from transit stops, recreation areas, and employment centers. Overall, the volume of pedestrian trips generated by the project is expected to be relatively low and not exceed the carrying capacity of the sidewalks and crosswalks nearby.

U.S. Census data indicate that bicycle trips comprise less than 1 percent of the total commute mode share in the City of Milpitas. For the proposed project, this would equate to approximately one new bike trip during each of the AM and PM peak hours. The low volume of bicycle trips generated by the project would not exceed the bicycle-carrying capacity of streets surrounding the site, and the increase in bicycle trips would not by itself require new off-site bicycle facilities.

According to the VTA (Santa Clara County CMP) Transportation Impact Analysis Technical Guidelines, a project would create an impact on pedestrian and bike circulation if: (1) it would reduce, sever or eliminate existing or planned bike/pedestrian access and circulation in the area; (2) it would preclude, modify, or otherwise affect proposed bicycle and pedestrian projects and/or policies identified in the Lead Agency's adopted bicycle/pedestrian plan, or the plans of other agencies such as the Countywide Bicycle Plan or adjacent Cities' bicycle/pedestrian plans; or (3) it would cause a change to existing bike paths such as alignment, width of the trail ROW, or length of the trail. Construction of the proposed project would not cause any of these criteria to be met. In addition, the proposed consolidation of site driveways along South Main Street from three driveways (spanning a total of 135 feet of sidewalk) to one fully operational driveway (spanning a total of approximately 20 feet) would reduce the number of potential vehicle-pedestrian conflict points and would be beneficial for pedestrian safety. Therefore, the proposed project would not result in any new or more significant impacts beyond those identified in the TASP FEIR.

According to the TASP, transit usage in the TASP Area is sufficiently high to warrant a trip reduction of 9 percent. For the proposed project, assuming 9 percent of total commute trips would be transit trips, approximately seven new transit trips during the AM peak hour and nine new transit trips would be generated during the PM peak hour. In addition to commute trips, there will be additional transit trips to nearby schools, parks, and shopping areas. The volume of transit trips generated by the project would not exceed the carrying capacity of the existing transit service to the site. Therefore, no improvements to existing transit service frequencies would be necessary in

conjunction with the proposed project. However, the proposed project would include upgrades, such as a bus shelter, to replace the bench at the existing bus stop located along the site frontage which would further encourage transit ridership.

According to the VTA TIA Technical Guidelines, a project would create an impact on transit if: (1) it would generate a demand for additional transit services; or (2) it would cause a permanent or temporary reduction of transit availability or interference with existing transit users (e.g., relocation/closure of a transit stop or vacation of a roadway utilized by transit). In the far-term, the number of transit trips could be expected to increase in conjunction with the extension of BART to Milpitas and San Jose. The project, by itself, would not require additional transit service to the area, nor would it preclude, modify or otherwise affect existing or proposed transit projects or policies identified by the VTA or AC Transit. Therefore, the proposed project would not result in any new or more significant impacts beyond those identified in the TASP FEIR.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Applicable Policies

TASP Policies

- *Policy 3.12: Preserve adequate right-of-way along Capitol Avenue, Great Mall Parkway, and Montague Expressway to accommodate future regional roadway improvements. Final dimensions of right-of-way acquisition are not yet known. The detailed street sections in Chapter 5 [of the Specific Plan] include notes about right-of-way acquisition, to the extent that information is currently available.*
- *Policy 3.15: Review individual development applications to ensure that adequate street right-of-way, bicycle facilities, pedestrian facilities and landscaping are provided and are consistent with the Transit Area Plan circulation policies and street design standards in Chapter 5 [of the Specific Plan].*
- *Policy 3.16: Establish and implement a travel demand management (TDM) program in order to encourage alternate modes of travel and thereby reduce automobile trips. Establish a funding mechanism to pay for the costs of the program, including the cost of a transportation coordinator to administer the program. The program would include a ride-matching program, coordination with regional ride-sharing organizations, and provision of transit information; and could also include sale of discounted transit passes and provision of shuttle service to major destinations.*
- *Policy 3.17: New streets shall be located as generally shown on the Street System Map, Figure 3-2.*

- *Policy 3.18: New development must dedicate land for new public streets and pay for their construction.*
- *Policy 3.21: Provide continuous pedestrian sidewalks and safe bike travel routes throughout the entire Transit Area and within development projects.*
- *Policy 3.22: Private development shall provide direct walking and biking routes to schools and major destinations, such as parks and shopping, through their property.*
- *Policy 3.28: Provide continuous bicycle circulation through the project site and to adjacent areas by closing existing gaps in bicycle lanes and bicycle routes, per Figure 3-5 [of the Specific Plan]. Gaps exist on Capitol Avenue between Montague Expressway and Trimble Road, and on Trade Zone Boulevard between Montague Expressway and Lundy Place. Capitol Avenue only needs to be re-stripped to add a bike lane. Trade Zone Boulevard generally contains sufficient width to accommodate two travel lanes and bike lanes in each direction; however, the westbound lanes on Trade Zone jog south slightly, so right-of-way acquisition will likely be required to push the curb further north to maintain a consistent section and to add bike lanes. Bike routes should be upgraded to bike lanes as part of any Montague widening project.*
- *Policy 3.29: A Class III bicycle route shall be created on the internal roadways (from the Milpitas Boulevard Extension/Capitol Avenue intersection to Tarob Court) to provide a continuous bicycle connection between Milpitas Boulevard and the existing bicycle lanes on Lundy Street, as indicated on Figure 3-5 [of the Specific Plan].*
- *Policy 3.32: Coordinate with VTA to provide sufficient amenities (such as transit shelters) at all transit stops within the Transit Area.*
- *Policy 6.32: The City shall establish and assess a transportation impact fee program, known as the Regional Traffic Fee, to contribute toward traffic improvements to be undertaken in whole or in part by the County of Santa Clara or City of San Jose. This fee will go toward the East/West Corridor Study, Montague Expressway Widening project, and Calaveras Boulevard (SR 237) Overpass Widening project, as well as other local and regional improvements.*
- *Policy 6.33: The City shall establish and assess a transportation impact fee program to provide improvements to mitigate future traffic operations on the roadway segments within the City of Milpitas. All projects within the Transit Area Plan will be required to pay this fee.*
- *Policy 6.34: The new traffic impact fee program should include fair-share payments toward the following improvement: At the West Calaveras Boulevard/I-880 northbound ramps, convert the northbound center left turn lane to a shared left-turn/right-turn lane. The City of Milpitas will coordinate with Caltrans to implement this improvement.*

- *Policy 6.35: The new traffic impact fee program should include fair-share payments toward the following improvement: At the intersection of Tasman Drive/McCarthy Boulevard, the southbound (McCarthy Boulevard) shared through/right-turn lane will be converted to an exclusive right-turn lane with overlap signal phasing. The southbound right-turn will have a green arrow and enter the intersection at the same time as the eastbound left-turn movement. Eastbound left-turns will be prohibited. The City of Milpitas will implement this improvement.*
- *Policy 6.36: The new traffic impact fee program should include fair-share payments toward the following improvement: Coordinate the traffic signals at the Tasman Drive / I-880 southbound ramps and the Great Mall Parkway/I-880 northbound ramps with one another as well as adjacent intersections, particularly Tasman Drive/Alder Drive, in order to improve operations in the Great Mall Parkway/Tasman Drive corridor north of the Transit Area. The City of Milpitas will coordinate with Caltrans to implement this improvement.*

Conclusion

The TASP FEIR adequately evaluated the transportation impacts of the proposed project. The proposed project would be required to comply with TASP policies related to transportation including traffic impact fees and City of Milpitas 2008 CFD (TASP Area) tax rates. Therefore, the proposed project would not create any new transportation and additional mitigation is not required.

17. TRIBAL CULTURAL RESOURCES

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
i. Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k)? Or	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii. A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

The only site within the TASP Area that the TASP FEIR identified as potentially eligible for the California Register of Historic Resources is the Great Mall, which is not located within the project site. General Plan Policy 4.f-G-1 would reduce any potential impact to historical and cultural resources to a less-than-significant level. As previously discussed in Section 5, Cultural Resources of this checklist, the TASP FEIR determined that impacts to cultural and historic resources would be reduced to less-than-significant levels with implementation of Policy 5.34 to reduce potential impacts to previously unidentified archeological resources to a less-than-significant level through construction monitoring, and if remains are found, temporary halting of construction until development of a mitigation plan and its implementation. This finding applies to tribal cultural resources. Therefore, the proposed project would not result in any new or more severe impacts to tribal cultural resources than were identified in the TASP FEIR.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Applicable Policies

General Plan Policies

- *Policy 4.f-G-1: Preserve existing historical and cultural resources, especially those sites where an Historical Park may prove feasible.*

Conclusion

The TASP FEIR adequately evaluated the potential tribal cultural resources impacts for the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

18. UTILITIES AND SERVICE SYSTEMS

	New Potentially Significant Impact	New Mitigation Required	Reduced Impact	No New Impact
Would the project:				
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion

Wastewater Treatment Requirements

As the TASP FEIR describes, the City's Main Pump Station has a wet weather capacity between 42 and 45 million gallons per day (mgd) and the City does not expect buildout of the TASP, including the project site, to cause the City's overall wet weather flow to exceed this capacity (TASP Impact 3.11-3).¹³ The City plans to make improvements to the Main Sewage Pump Station, not as a result of the buildout of the TASP, but as a result of overdue maintenance and seismic deficiencies. The TASP FEIR determined that the buildout of the TASP would result in an increase in wastewater flow and several new improvement projects to sewer pipelines would be required.

The TASP FEIR also determined buildout of the TASP would create sewer flows that when combined with other cumulative growth and development within the City would exceed the City's contracted capacity at the Water Pollution Control Plant. However, because the proposed project is within the level of development evaluated in the TASP FEIR, it would not result in any new or more severe impacts related to wastewater capacity and infrastructure than those previously analyzed.

¹³ Milpitas, City of, 2008. *Milpitas Transit Area Specific Plan Final Environmental Impact Report*. May.

Stormwater Drainage Facilities

The TASP would require the development of new storm drainage infrastructure as outlined in the 2001 Storm Drain Master Plan.¹⁴ The majority of existing utilities within the boundary of the project site, aside from those within the public service easement (PSE) located on the western boundary of the project site would be removed. The proposed project would include the installation of new storm drain lines on the project site and would drain through the project site to a media filter, then connect to the existing 36-inch municipal storm drain located within the PSE. The potential impacts associated with storm drainage facilities from the proposed project would not be greater or more severe than those identified in the TASP FEIR.

Water Supply

The TASP FEIR determined that the buildout of the TASP, including the project site, would increase water demand at buildout by 1.1 mgd. The buildout of the TASP would exceed capacity of the existing turnout delivering water from the SCVWD system during the peak hour demand period. This increase in demand would require improvements to the existing water infrastructure both within the TASP Area and affected pressure zones.

TASP Policy 6.22 would ensure that less-than-significant impacts associated with water supply would occur. The TASP FEIR concluded that this water demand will be adequately served by water supplies from current sources in addition to offsets by the supplies available from the SCVWD, the ability to run emergency wells, and an increased use of recycled water. The TASP provides policies which require the use of recycled water.

Solid Waste

Buildout of the TASP Area would result in an increase in the amount of solid waste due mainly to the increase in residential uses. The TASP FEIR concluded that there is sufficient capacity in the existing solid waste disposal facilities serving the TASP Area, including the project site, for at least 30 more years. The proposed project would conform to TASP policies and would not result in any new or more severe impacts beyond those identified in the TASP FEIR.

Applicable Mitigation

No substantial changes in environmental circumstances have occurred for this topic, nor revisions to the project, nor new information that could not have been known at the time the TASP FEIR was certified leading to new or more severe significant impacts, and no new mitigation measures are required.

Applicable Policies

TASP Policies

- *Policy 6.6: Construct the improvements within the Transit Area that were identified in the 2001 Storm Drainage Master Plan, and any other improvements identified in updates to the Master Plan.*

¹⁴ Milpitas, City of, 2001. *Storm Drain Master Plan*. July.

- *Policy 6.13: Provide water supply for the Specific Plan area from the Santa Clara Valley Water District.*
- *Policy 6.16: Reduce water consumption through a program of water conservation measures, such as use of recycled water, water-saving features, and drought-tolerant landscaping.*
- *Policy 6.17: The City of Milpitas will require that water saving devices, as required by the California Plumbing Code, be installed in all residential, commercial, industrial and institutional facilities within the Transit Area. Such devices are capable of reducing the amount of water used indoors, resulting in substantial wastewater flow reductions.*
- *Policy 6.19: Per the Midtown Specific Plan, require new development to include recycled water lines for irrigation.*
- *Policy 6.20: The City of Milpitas will require that recycled water be used to irrigate all parks, plazas, community facilities, linear parks, landscaped front yards and buffer zones. Recycled water may also be used for landscape irrigation on vegetated setbacks and private common areas. The City shall also require, where reasonable and feasible, that commercial uses, schools and non-residential mixed use developments be provided with dual plumbing to enable indoor recycled water use for non-potable uses to the extent feasible.*
- *Policy 6.21: Require existing irrigation users to convert to recycled water when it becomes available.*
- *Policy 6.23: All new development shall participate to the maximum extent practical in solid waste source reduction and diversion programs.*

Conclusion

The TASP FEIR adequately evaluated the potential utilities impacts for the proposed project. Therefore, potential impacts would be less than significant and additional mitigation is not required.

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